Also, a bill (H. R. 18461) to suspend for a period of six months the act of February 8, 1875, levying a tax upon notes used for circulation by any person, firm, association (other than national bank associations), and corporations, State banks, or State banking associations, and for other purposes; to the Committee on Banking and Currency.

By Mr. MURDOCK: A bill (H. R. 18462) to grant relief to persons erroneously convicted in the courts of the United States; to the Committee on the Judiciary.

By Mr. KELLY of Pennsylvania: Resolution (H. Res. 597) directing the Secretary of State to inform the House of Representatives as to arrangements for transmitting relief funds from American Jews to their suffering relatives and friends in countries in Europe involved in war; to the Committee on Foreign Affairs.

By Mr. DIFENDERFER: Resolution (H. Res. 598) directing report made by Maj. Eli A. Helmick to the War Department relative to the purchase of supplies be furnished the House of Representatives; to the Committee on Military Affairs.

By Mr. PARK: Memorial from the Legislature of the State of Georgia, urging that Congress devise ways and means by which the cotton crop may be marketed consistent with national economy and safety; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ANTHONY: A bill (H. R. 18463) granting an increase of pension to William A. Wallace; to the Committee on Invalid Pensions.

By Mr. BROUSSARD: A bill (H. R. 18464) granting a pension to Joseph Daley; to the Committee on Pensions.

By Mr. BURKE of Wisconsin: A bill (H. R. 18465) granting a pension to George Moore; to the Committee on Invalid Pensions.

Also, a bill (H. R. 18466) granting an increase of pension to James W. Harnden; to the Committee on Invalid Pensions.

Also, a bill (H. R. 18467) granting an increase of pension to George H. McIntyre; to the Committee on Invalid Pensions.

Also, a bill (H. R. 18468) for the relief of Guy C. Pierce; to the Committee on War Claims.

By Mr. BYRNS of Tennessee: A bill (H. R. 18469) for the relief of the estate of Darling Allen, deceased; to the Committee on War Claims.

By Mr. CARY: A bill (H. R. 18470) authorizing the President to reinstate Francis Patrick Regan as a lieutenant in the United States Army; to the Committee on Military Affairs.

By Mr. DERSHEM: A bill (H. R. 18471) granting an increase of pension to George Houser; to the Committee on Invalid Pensions.

Also, a bill (H. R. 18472) granting an increase of pension to William A. Myers; to the Committee on Invalid Pensions.

By Mr. HAMILL: A bill (H. R. 18473) granting a pension to Mary Davis; to the Committee on Invalid Pensions.

By Mr. HINDS: A bill (H. R. 18474) for the relief of William J. Blake; to the Committee on Claims.

Also, a bill (H. R. 18475) for the relief of Leonidas H. Sawyer; to the Committee on Claims.

By Mr. KENNEDY of Connecticut: A bill (H. R. 18476) granting a pension to Patrick Hayes; to the Committee on Invalid Pensions.

By Mr. MAPES: A bill (H. R. 18477) granting a pension to Annie C. Blauvelt; to the Committee on Invalid Pensions.

By Mr. TAYLOR of Arkansas: A bill (H. R. 18478) granting an increase of pension to Mary J. Utter; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. BALTZ: Petition of Local Union No. 705, United Mine Workers of America, of O'Fallon, Ill., relative to increase in price of necessities by speculation on account of European war; to the Committee on Interstate and Foreign Commerce.

By Mr. BYRNS of Tennessee: Papers to accompany a bill for relief of estate of Darling Allen, deceased; to the Committee on War Claims.

By Mr. CARY: Petition of Women's Home Missionary Society of Los Angeles and Pomona, Cal., relative to running railroad tracks in front of Sibley Hospital, Washington, D. C.; to the Committee on the District of Columbia.

By Mr. DOOLITTLE: Petition of sundry civil-service employees of Topeka, Kans., favoring Hamill civil-service retirement bill; to the Committee on Reform in the Civil Service.

By Mr. FESS: Petition of the Women's Home Missionary Society of Yellow Springs, Ohio, relative to running railroad tracks in front of Sibley Hospital, Washington, D. C.; to the Committee on the District of Columbia.

By Mr. GARNER: Petition of sundry citizens of Texas, favoring settlement of Polar controversy; to the Committee on Naval Affairs.

By Mr. HELGESEN: Petition of E. E. Stone, of Fargo, N. Dak., and 10 other citizens of the United States, favoring settlement of Polar controversy; to the Committee on Naval Affairs.

By Mr. HOWELL: Petition of the Utah Retail Jewelers' Association, favoring Owen-Goeke bill; to the Committee on Interstate and Foreign Commerce.

By Mr. HOXWORTH: Petition of various business men of the cities of Table Grove, Astoria, Vermont, Canton, Smithfield, Abingdon, and Ipava, all in the State of Illinois, in support of House bill 5308, to tax mail-order houses; to the Committee on Ways and Means.

Also, petition of S. W. Trafton Post, No. 239, Grand Army of the Republic, of Illinois, favoring abolishing office of pension examiner; to the Committee on Pensions.

By Mr. KENNEDY of Rhode Island: Petition of Jane A. Gilmore, of Pawtucket, R. I., favoring placing of replicas of the Hondon statues of Washington at West Point and Annapolis; to the Committee on the Library.

By Mr. McCLELLAN: Petition of T. Raensh and 23 residents of Tannersville, N. Y., approving "strict neutrality"; to the Committee on Foreign Affairs.

By Mr. NOLAN: Resolutions of the Forty-seventh Annual Encampment of the Department of California and Nevada, Grand Army of the Republic, protesting against legislation to change the arrangement of the stars and the addition of the Confederate bars on the American flag; to the Committee on the Judiciary.

By Mr. O'LEARY: Petition of sundry citizens of Chicago, Ill., favoring settlement of polar controversy; to the Committee on Naval Affairs.

By Mr. SAUNDERS: Petition of sundry citizens of Virginia favoring investigation of rural credits; to the Committee on Banking and Currency.

By Mr. TREADWAY: Petition of various German residents of Holyoke, Mass., favoring absolute neutrality for this country during European war; to the Committee on Foreign Affairs.

By Mr. WATSON: Petition of sundry citizens of Mecklenburg, Brunswick, Surry, Dinwiddie, and Prince Edward Counties, and Petersburg, all in the State of Virginia, favoring an investigation of rural credits, etc.; to the Committee on Banking and Currency.

SENATE.

FRIDAY, *August 21, 1914.*

The Senate met at 11 o'clock a. m.

Rev. J. L. Kibler, D. D., of the city of Washington, offered the following prayer:

Our heavenly Father, we thank Thee for all the instrumentalities that have been provided for the advancement of Thy cause. We thank Thee for the church and for all that it has accomplished for mankind. Grant to sanctify all its agencies for the consummation of Thy purposes in the earth. The passing of the head of a great Christian church, whose sympathetic heart rose to the point of grief for the turmoil of the nations, has brought a new sorrow to multitudes. We thank Thee for his charitable heart and for all the good influences that have gone out from his life. We pray for the divine consolation upon all those who mourn his departure. We ask it for Christ's sake. Amen.

The Secretary proceeded to read the Journal of the proceedings of the legislative day of Wednesday, August 19, 1914, when, on request of Mr. SMOOT and by unanimous consent, the further reading was dispensed with and the Journal was approved.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by J. C. South, its Chief Clerk, announced that the Speaker of the House had signed the following enrolled bills and joint resolution, and they were thereupon signed by the Vice President:

S. 5673. An act to amend an act entitled "An act to protect the locators in good faith of oil and gas lands who shall have effected an actual discovery of oil or gas on the public lands of the United States, or their successors in interest," approved March 2, 1911;

S. 6315. An act to authorize the Great Western Land Co., of Missouri, to construct a bridge across Black River;

H. R. 14155. An act to amend an act of Congress approved March 28, 1900 (vol. 31, Stat. L., p. 52), entitled "An act granting to the State of Kansas the abandoned Fort Hays Military Reservation, in said State, for the purpose of establishing an experiment station of the Kansas State Agricultural College and a western branch of the State Normal School thereon, and for a public park; and

H. J. Res. 246. Joint resolution to authorize the Secretary of War to grant a revocable license for the use of lands adjoining the national cemetery near Nashville, Tenn., for public-road purposes.

MONTANA STATE CELEBRATION.

Mr. WALSH. Mr. President, at this season the people of Montana are having a celebration the national importance of which has attracted the attention of the press of the country. I send to the desk and ask to have read an editorial from one of the leading papers of New England.

There being no objection, the Secretary read as follows:

Montana is celebrating this week her 25 years of statehood and half century of existence since in the midst of her gold discoveries and frontier disorders she was set up as a Territory. The other States of the Union may well join in the felicitations. Not exactly unique, indeed typical of the States that have been carved out of the great region that was not so long ago rated a vast desert, the story of her growth has every charm of romance of the rugged sort which the former frontier of America developed for the world's entertainment. In the midst of her great hills and deep canyons, her wealth of mines and her once arid but now productive plains, her tumbling rivers and her climate of extremes, she has been built up into a Commonwealth with all the vigor of the western kind, writing the pioneership of her habit into the laws that work out experiments in democracy for mankind's instruction.

Nothing has been lacking in the development of the great State of the Northwest which picturesqueness could demand. The inrush of the miners in the period of the war for the Union, the battling with the elements, the upturning of the richest veins of metal, the contest with the Indians that gave her the battle field that will longest be remembered, where Custer led his little troop, the conquering of lands by the turning of the rivers into irrigation ditches, the encounters of primitive politics, and the emerging into a small empire, not so small, with all the equipment of modern progress, well-built towns, university, agriculture by machinery, and mining reduced to a well-ordered industry, all these aid in the occasion for her jubilee.

With hardly one man to a hundred square miles of territory when given its first government in 1864, and grown to only 39,000 population in 1880, Montana became a State 10 years later with 143,000, grew to 376,000 in 1910, and must be approaching the half million, which in turn is but a mark on the way to the great population she is capable of maintaining. More than $32,000,000 has been spent on irrigation of the million acres that are thus made fertile. The mining products have mounted to over $50,000,000 in a year. Resources are still in process of discovery, while the falls of her many streams are not yet in harness to do their possible work. The population, once largely foreign, is now native in as large a proportion as that of Massachusetts, and illiteracy has been reduced to less than 5 per cent of the people of 10 years and over in age. These are items in the list of achievements that mark the progress of an American State from the roughest of raw material to a greatness none may estimate. (Christian Science Monitor, Aug. 15, 1914.)

PETITIONS AND MEMORIALS.

Mr. WEEKS presented memorials of sundry citizens of Cambridge, Mass., remonstrating against any advance being made in the price of flour, which were referred to the Committee on Agriculture and Forestry.

Mr. CHAMBERLAIN presented petitions of sundry citizens of Cottage Grove and Halfway, in the State of Oregon, praying for national prohibition, which were referred to the Committee on the Judiciary.

Mr. PERKINS presented memorials of sundry citizens of Los Angeles and Pasadena, in the State of California, remonstrating against the passage of the Clayton antitrust bill, which were ordered to lie on the table.

Mr. THORNTON presented petitions of sundry citizens of Kentwood and Pine Ridge, in the State of Louisiana, praying for national prohibition, which were referred to the Committee on the Judiciary.

Mr. POINDEXTER presented petitions of sundry citizens of the United States, praying for the enactment of legislation providing for the recognition of Dr. Frederick A. Cook in his polar efforts, which were referred to the Committee on the Library.

Mr. GRONNA presented petitions of sundry citizens of Manfred, McClusky, Lincoln Valley, Hebron, Heaton, Mercer, Gackle, Streeter, Nome, Harvey, Jamestown, Goodrich, Skyeston, Merricourt, Bowdon, Carrington, Newhome, Denhoff, Kulm, Lehr, Willa, Cleveland, Portland, Cathay, Alsen, Zenith, Tower City, Ellendale, and Monango, all in the State of North Dakota, praying for the adoption of an amendment to the Constitution providing for national prohibition of the liquor traffic, which were referred to the Committee on the Judiciary.

Mr. BRADY presented sundry papers to accompany the bill (S. 5903) for the relief of Lawrence M. Larson, which were referred to the Committee on Claims.

REPORTS OF COMMITTEES.

Mr. FLETCHER, from the Committee on Military Affairs, to which was referred the bill (H. R. 7205) to correct the military record of H. S. Hathaway, reported it with amendments and submitted a report (No. 761) thereon.

Mr. STERLING, from the Committee on Public Lands, to which was referred the bill (H. R. 4318) to authorize the Secretary of the Interior to cause patent to issue to Erik J. Aanrud upon his homestead entry for the southeast quarter of the northeast quarter of section 15, township 159 north, range 73 west, in the Devils Lake land district, North Dakota, reported it without amendment and submitted a report (No. 762) thereon.

Mr. WALSH, from the Committee on Mines and Mining, to which was referred the bill (S. 5588) to provide for the establishment and maintenance of mining experiment and mine safety stations for making investigations and disseminating information among employees in the mining, quarrying, metallurgical, and other mineral industries, and for other purposes, reported it with an amendment and submitted a report (No. 763) thereon.

Mr. BRYAN, from the Committee on Claims, to which was referred the bill (H. R. 2696) for the relief of Thomas Haycock, reported it without amendment and submitted a report (No. 764) thereon.

Mr. SIMMONS, from the Committee on Finance, to which was referred the bill (H. R. 1781) providing for the refund of certain duties incorrectly collected on wild-celery seed, reported it without amendment and submitted a report (No. 765) thereon.

He also, from the same committee, to which was referred the joint resolution (S. J. Res. 177) to transfer to the custody and possession of the Attorney General sealskins, reported it without amendment and submitted a report (No. 766) thereon.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. JONES:

A bill (S. 6369) permitting magazines and periodicals to be carried through the mails free in certain cases; to the Committee on Post Offices and Post Roads.

By Mr. SMOOT:

A bill (S. 6370) granting an increase of pension to Edward E. Teter (with accompanying papers); to the Committee on Pensions.

By Mr. SHIVELY:

A bill (S. 6371) granting an increase of pension to Lewis Walker; and

A bill (S. 6372) granting an increase of pension to Orlando L. Dougherty (with accompanying papers); to the Committee on Pensions.

PROPOSED ANTITRUST LEGISLATION.

Mr. WALSH submitted an amendment intended to be proposed by him to the bill (H. R. 15657) to supplement existing laws against unlawful restraints and monopolies, and for other purposes, which was ordered to lie on the table and be printed.

TERRITORIAL INTEGRITY OF CHINA.

Mr. GALLINGER. I submit a resolution with a memorandum attached. The memorandum need not be read, but I ask that the resolution be read and referred to the Committee on Foreign Relations.

The resolution (S. Res. 445) was read and, with the accompanying memorandum, referred to the Committee on Foreign Relations, as follows:

Whereas recent developments point to the extension into the regions of the Far East of the existing armed conflict of Europe: Therefore be it

Resolved, That the United States reaffirms its attitude as to the territorial integrity of China, and renews its adherence to the principle of the "open door" in that Republic; and be it further

Resolved, That the United States could not view with indifference any suggestion looking to the alteration of the existing territorial status quo of the islands of the Pacific and Oceania or to any change in the character of their present occupation and settlement.

PURCHASE OF SILVER BULLION.

Mr. SMOOT. From the Committee on Finance I report back favorably with an amendment the bill (S. 6261) authorizing the Secretary of the Treasury to purchase not exceeding 25,000,000 ounces of silver bullion, and for other purposes. As it is an emergency matter, I ask for the immediate consideration of the bill.

The VICE PRESIDENT. Is there objection to the present consideration of the bill?

Mr. McCUMBER. Mr. President, I was one of the subcommittee to which the bill was referred for consideration. I understand that there was no formal written report by the com-

mittee, and I therefore want to take this opportunity to voice my sentiment against the bill. While I have agreed not to oppose its present consideration, I shall ask for an explanation of it, and I may myself have something to say upon the bill.

Mr. SMOOT. Mr. President, I will simply say that the bill authorizes the Secretary of the Treasury to anticipate the requirements of the Treasury for silver bullion for the subsidiary coinage. The bill originally provided for the purchase of 25,000,000 ounces. It has been thought that 15,000,000 ounces would be ample to purchase to keep the mines of the West in operation. There are produced in the United States about sixty to sixty-five million ounces of silver each year. Under the present law there are some three or four million ounces of silver purchased by the United States and used in the coinage of subsidiary coin. That is purchased every year now by the Government in the open market.

The bill simply anticipates the requirements of the Government and authorizes the Secretary of the Treasury, in his discretion, to purchase up to 15,000,000 ounces within the coming six months.

Mr. BRISTOW. Mr. President——

The VICE PRESIDENT. Does the Senator from Utah yield to the Senator from Kansas?

Mr. SMOOT. I do.

Mr. BRISTOW. I should like to inquire of the Senator from Utah why the Government should buy silver any more than it should buy wheat or any other product of the American people?

Mr. SMOOT. Silver is now and always has been used by our Government as a part of her monetary system. It is being used in all parts of the United States. I see a difference between purchasing silver and purchasing wheat, and if——

Mr. BRISTOW. It is all right to purchase silver if we need it; but why purchase a lot of silver because of the dull market for it now, any more than to purchase anything else that there is a dull market for?

Mr. SMOOT. The situation in Europe to-day, on account of the war, is such that there is not a present demand for silver, but there will be, I have no doubt, before very long. The Senator knows that in war times particularly there is a demand for silver by the different Governments; but at the present time the financial situation in the world is so upset and the transportation of it is so interfered with that there can not be the sale of silver bullion that ordinarily takes place in the regular course of business.

Mr. BRISTOW. Is not that true of every other American product where we have a surplus? Is it not true of wheat, and is it not true of everything else that we have to sell? Why should silver mining be selected as the special industry that we should go out and buy its product? Why not buy some cotton?

Mr. SMOOT. We have done and are doing everything in our power to pass laws, since the European war began, to facilitate the transportation of wheat and cotton and other products, and the Senator should not object to this bill, and I sincerely trust he will not do so.

Mr. BRISTOW. I think the bill ought to go over.

Mr. McCUMBER. Before the bill goes over I wish to ask——

Mr. SMOOT. I should like to ask the Senator from Kansas if he will not withdraw his objection?

Mr. BRISTOW. I will not. There is no reason why we should pass the bill post haste.

The VICE PRESIDENT. There is objection, and that ends it for the present. The bill will be placed on the calendar.

BLACK WARRIOR RIVER IMPROVEMENT.

Mr. BANKHEAD. From the Committee on Commerce I report back favorably without amendment the joint resolution (S. J. Res. 181) authorizing the Secretary of War to permit the contractor for building locks on Black Warrior River to proceed with the work without interruption to completion, and I ask for its present consideration.

Mr. BURTON. Reserving the right to object, I should like to ask that the joint resolution be read.

The VICE PRESIDENT. The Secretary will read the joint resolution.

The Secretary read the joint resolution, as follows:

Resolved, etc., That the Secretary of War may, in his discretion, on the recommendation of the Chief of Engineers, permit the contractor for building Locks and Dam No. 17, on Black Warrior River, to proceed with the work specified in the contract made in pursuance of the act of Congress approved August 22, 1911, and to carry the said work to completion without interruption on account of the exhaustion of available funds, it being understood that the contractor is to rely upon future appropriations for payment, and that no payment for said work will be made until funds shall have been provided and made available therefor by Congress.

Mr. BANKHEAD. I should like to have the permission of the Senate to explain the joint resolution. It will require only three minutes if I may get unanimous consent.

The VICE PRESIDENT. Is there objection?

Mr. BURTON. I shall object to that.

Mr. BANKHEAD. Am I to understand that the Senator from Ohio objects?

Mr. BURTON. I object. The Black Warrior River improvement is in just the same position with a number of other improvements. A provision of this kind is entirely without a precedent.

Mr. BANKHEAD. I object to the Senator making an explanation if he will not permit me to explain the joint resolution.

The VICE PRESIDENT. If it is asked that the joint resolution go over, it goes over.

Mr. BURTON. I have no objection to allowing the Senator from Alabama to make a statement.

The VICE PRESIDENT. If there is no objection, the Senator from Alabama has permission to proceed.

Mr. BURTON. But I shall object to the passage of the joint resolution.

Mr. BANKHEAD. Mr. President, the situation is this: The Government of the United States has expended up to this time more than $10,000,000 improving the Warrior, the Bigbee, and the Black Warrior Rivers in order that the coal fields of Alabama might be reached and the products transported to the Gulf. Lock 17 referred to in the joint resolution is the last lock of the system. The contract price is $2,500,000. It is a lock 62 feet high and creates a pool above it right through the heart of the coal fields for 50 miles. The lock is now practically completed. The contractor has 500 men employed; he has material on hand that has been accepted by the Government for its completion; he has a railroad for at least 16 miles, which was necessary to transport material for the building of the lock. He is under a $500,000 bond for the completion of the lock by the first of January next.

If the work is to be suspended it will necessarily delay the completion of this great work for practically 12 months. The contractor comes forward and says the appropriation is exhausted. We do not ask for a dollar of appropriation in this joint resolution. We would not come into the Senate and ask that an exception be made in this case, but we do come in here and permit the contractor at his own risk and his own expense with his own money to complete this lock. We say that he shall take all the risk and all the chances of being reimbursed at some time in the future when Congress shall make appropriation to pay the contract price for the lock.

If there are any other situations in this country similar to this, if there is any other case parallel to it, amend the joint resolution; I shall not object to it. You may include every project in this country that is nearing completion where the contractor himself comes forward and says, "I will do it at my own risk, at my own expense, and if you never make any appropriation to pay me it is my loss."

That is all there is in the joint resolution, and it seems to me that there ought not to be any objection to its passage.

Mr. WHITE. Will my colleague allow me just one moment?

Mr. BANKHEAD. Certainly.

Mr. WHITE. I wish to say, in addition to what my colleague has said, that any substantial delay of this work will cost the Government $250,000, as I am informed has been estimated by the Engineering Department. This is the season of the year above all other seasons when the work can best be done. This is the dry season, and if we allow this season to pass and the winter rains to come it necessitates waiting until about this time next year, or at least we take the chance of having that to contend with. The risk of high water during the winter, spring, and summer are not only to the disadvantage of the contractor but to the disadvantage of the Government as well, and the long delay of conveying our coal, iron, and steel to the Gulf will result.

As my colleague has said, this is the last step to be taken in bringing to final accomplishment a great Government enterprise. The money for that great enterprise has been already expended by the Government, and it only needs a small amount to vitalize this vast expenditure and give its benefit to the country.

I do hope and trust that Senators will not object to the present consideration and passage of this resolution.

Mr. BURTON. I should like to ask the Senator from Alabama what there is to prevent this contractor from going right on with his work without the passage of any such resolution?

Mr. BANKHEAD. I thought that could be done. The contractor and myself went to the Secretary of War and presented this question to him, and the Secretary of War said under the statute he can not authorize without the consent of Congress the continuance of a work for which an appropriation has not been made. The Secretary of War directed this joint resolution

to be drawn; it was drawn at the War Department, and they are exceedingly anxious for many reasons that this work should be completed.

Mr. President, we do not come here and ask for an appropriation to cover this exceptional case, but we simply come and beg the Senate to let us at our own expense and at our own risk go on and complete this great enterprise. I have a letter, received this morning, from the largest coal operator in Alabama, inquiring when he may expect this work to be completed. He says:

I am opening mines on the river on this great pool; I am building barges, I am building tows, I am getting ready to avail myself of this opportunity at the earliest time; but I can not afford to lock up a large amount of money with the uncertainty in front of me that it may be a long time before I can utilize it.

Mr. McCUMBER. Mr. President——

The VICE PRESIDENT. Does the Senator from Alabama yield to the Senator from North Dakota?

Mr. BANKHEAD. I do.

Mr. McCUMBER. I should like to ask the Senator from Alabama if this appropriation ought to be made, as it will have to be made if we act honorably in the matter after the work has been completed and we accept that work, why not introduce a bill making an appropriation to cover the expenses, instead of seeking action on this joint resolution allowing the contractor to go ahead with the work and appropriate for it afterwards?

Mr. BANKHEAD. Mr. President, there is a provision in the pending river and harbor bill that provides the appropriation necessary to complete this work; but the trouble is, as I have before stated, that the contractor employed on this work had 500 men whom he was compelled to lay off last Saturday because the appropriation had become exhausted.

Mr. McCUMBER. What I want to get at is, Is it not just as easy to put through a special appropriation bill for this particular purpose as it is to pass this special joint resolution authorizing the contractor to go on with his work for which it may be necessary afterwards to pass a special bill to pay him?

Mr. BANKHEAD. I do not think that is quite the situation. I had very grave doubt in my mind whether we could pass a special bill for this purpose; I had very grave doubt in my mind whether Senators would be willing to take this situation out of the ordinary, although it is out of the ordinary, and make an exception in its behalf and appropriate money directly for it. Therefore the contractor said, "I will furnish the money until the appropriation is made; some time or other the river and harbor bill will be passed." This emergency joint resolution, however, is designed to prevent a suspension of the work for an indefinite time, a disorganization and disintegration of this contractor's force, and the delay which will necessarily follow.

The amount involved is small and the contractor is willing to go down into his pocket and put up the money. He says, "I will wait until you appropriate; and if you never appropriate for the amount of this contract it is my loss, and I will stand it." It does seem to me, under those circumstances, that there ought not to be any objection to the passage of the joint resolution.

Mr. BURTON. Mr. President, explaining the course I am pursuing, I desire to say that there is a degree of hardship here, but there is an equal amount of hardship in similar situations in at least a dozen other cases in the country. It has always been true of our river and harbor legislation that special partiality has been shown to localities which insisted more strenuously and in a louder tone upon favor being done to them. The only correct rule to follow is to treat all alike; and I must object to this being treated as a separate case.

Representations have been made to me as to the discharge of men in other places. I take it that it is the intention to pass a river and harbor bill at this session. Opponents of the measure, who have fought it, consider the bill as reported to the Senate as faulty to the last degree; we are opposed to the passage of the bill in its present form, but we have no objection to the passage of a measure which shall be purged of objectionable items. We favor the passage of such a bill. It has been announced here that it is a part of the program to bring up the river and harbor bill and pass some such measure before Congress adjourns. We understand that to be the case and shall endeavor to shape our course accordingly.

Mr. SIMMONS. Mr. President, the Senator from Ohio says he is in favor of passing the river and harbor bill if it is purged. Who does he wish to do the purging? Does he expect the Congress of the United States to do the purging, or is he himself and the gentlemen who are cooperating with him insisting that they shall be permitted to do the purging?

Mr. BURTON. The opponents of the bill expect to argue the features of the bill and point out its objectionable features. I may say frankly here that every one understands the pressure under which Members of the Senate and the House are under as to particular items. What is the natural attitude of those who oppose the bill when we are told repeatedly by Senators that they must vote for this bill, although they consider it most objectionable and think it ought not to pass in its present form?

Mr. NELSON. Mr. President, will the Senator from Ohio yield to me?

Mr. BURTON. Certainly.

Mr. NELSON. I am somewhat familiar with the river and harbor appropriations, and I wish to say that there is not a single case that is so acute and so important and where the conditions are such as they are in this case. I sincerely trust that whatever objection the Senator from Ohio may have to the provisions of the river and harbor bill, in view of the emergency in connection with this improvement, he will withdraw his objection. That can not militate against his objections to the other features of the bill in the least. This case stands on its own peculiar conditions. It would be unfortunate, to my mind, to dismantle the whole work in its present stage and to send four or five hundred men home and suspend the improvement for another year. We ought to look at the welfare of the people in that community, and also at the welfare of the Government of the United States. If this work is suspended, it will entail a great loss, not only to the public in that locality, but also to the Government of the United States.

The Senator from Ohio is impressed with the idea that there are bad appropriations in the river and harbor bill, and for the sake of making a saving to the Government of the United States he is opposed to the entire bill; but here is an instance where, as a matter of fact, a quarter of a million dollars may be lost to the United States if no action is taken. I think, if the Senator from Ohio were consistent with his own gospel, he would let this measure go through.

Mr. BURTON. Mr. President, I do not think the Senator from Minnesota has considered all the projects where they are about to discharge their force, where there is an equal degree of urgency and in connection with which an equal degree of insistence has been brought to bear.

I want to say that if these contracts which are in an exceptional position can be marshaled together at a reasonable time from now, say in five days, and this joint resolution is again brought up I may not object, but I do object to its consideration to-day.

Mr. BANKHEAD. Then, I give notice that I shall call up this joint resolution to-morrow, and ask the Senate to consider it.

Mr. WHITE. Mr. President, I hope the Senator from Ohio will not object.

The VICE PRESIDENT. There being objection, the joint resolution goes over. Are there further reports of committees?

Mr. WHITE. Mr. President, I was appealing to the Senator from Ohio.

The VICE PRESIDENT. The Senator from Ohio has been appealed to three times, and has refused to consent to the present consideration of the joint resolution, which goes over.

Mr. WHITE. But, Mr. President, sometimes a man who has been appealed to the third time and refused may be induced to yield when the fourth appeal is made.

The VICE PRESIDENT. Are there further reports of committees?

Mr. WHITE. I hope the Senator from Ohio will not——

The VICE PRESIDENT. Are there further reports of committees?

MISSOURI STATE CONVENTION.

Mr. STONE. Mr. President, I desire to state that under the primary-election law of the State of Missouri candidates nominated for State offices, for Congress, and for the State legislature, together with the State committees of the respective political parties, are required to meet in convention for the purpose of formulating the party platform and to perform certain other duties. The convention is to be held on Tuesday of next week. Under the law, I am designated as a member of the convention, having been nominated for reelection to the Senate. I feel I ought to attend the convention, although I dislike to absent myself from the Senate at this time. I rise to make this explanation and to ask the consent of the Senate for leave of absence beginning to-morrow and for the greater part of the next week.

The VICE PRESIDENT. Is there any objection? The Chair hears none; and the Senator from Missouri is excused from attendance upon the Senate.

COAL SUPPLY FOR ALASKA.

Mr. CLARKE of Arkansas obtained the floor.

Mr. WALSH. Mr. President, before the Senator from Arkansas proceeds, I should like to ask unanimous consent to have read from the desk a telegram relating to another contingency precipitated by the war, which demands action.

Mr. CLARKE of Arkansas. I yield to the Senator for that purpose.

The VICE PRESIDENT. In the absence of objection, the Secretary will read as requested.

The Secretary read as follows:

CORDOVA, ALASKA, *August 12, 1914.*

Hon. THOMAS J. WALSH, *Washington, D. C.:*

British Columbia coal Alaska's only supply. Liable be withheld any day. Can't you give us legislative assistance opening our coal?

CORDOVA CHAMBER OF COMMERCE.

BUREAU OF WAR RISK INSURANCE.

Mr. CLARKE of Arkansas. I move that the Senate proceed to the consideration of Senate bill 6357, which is the war-risk insurance bill.

The VICE PRESIDENT. The question is on the motion of the Senator from Arkansas.

The motion was agreed to, and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. 6357) to authorize the establishment of a bureau of war-risk insurance in the Treasury Department.

Mr. CLARKE of Arkansas. Mr. President, the bill which has just been called up for consideration by the Senate is known as the war-risk insurance bill. It is one of the emergency measures made necessary by the existence of the deplorable war in Europe. It has been discovered that because of its widespread effect and influence that this war has interfered with our commerce in more ways than wars ordinarily do with the commerce of a neutral, and that, therefore, there has been developed a necessity for some such measure as this. It has been formulated with the cooperative action of practical business men familiar with matters of this kind.

The bill provides that when adequate insurance can not be obtained from private companies upon reasonable rates the Government of the United States may assume that part of the marine risk known as the war risk; that is to say, it does not include the ordinary risks of navigation, but the risk which the Government is thereby authorized to assume is confined exclusively to those dangers known as war risks, such, for instance, as seizure and condemnation as a prize, possible assault by one or the other of the belligerents, contact with a mine, or some of the numerous dangers that are peculiarly inherent in war.

The amount appropriated is $5,000,000, and a bureau is created in the Treasury Department to take charge of the matter of administering the law along scientific lines, as they are understood in that particular branch of business.

The necessity for the bill at this time grows entirely out of existing conditions in Europe. The war has interfered with shipping to such an extent that the European nations interested in sea commerce have taken upon themselves this peculiar risk, because private companies seem undisposed to assume it in the usual form of issuing an insurance policy against it. That is distinctly true of England, France, and Germany. The rate of premium for insuring against the war risk, separately considered, has been as high as 10 per cent in this country during the prevalence of this war. The current rate here has now gone down almost to normal by reason of the announcement made by the British Admiralty that the sea path from this country to England is now open and under adequate protection from the fleets of that country.

Mr. GALLINGER. Mr. President——

Mr. CLARKE of Arkansas. I yield to the Senator.

Mr. GALLINGER. I assume that the necessity for this measure arises from the circumstance that in all human probability we will put foreign-built steamships into the commercial business of the United States.

Mr. CLARKE of Arkansas. That is one of the contingencies for which we seek to provide.

Mr. GALLINGER. There is another question I want to propound to the Senator. I notice—and that is the usual method, but I think sometimes it is an unnecessary thing to do—that a bureau is provided for, to be presided over by a $6,000 man, who is to have under him various other officers whose salaries will not exceed $5,000, and numerous employees apparently at $3,000 or less. The conduct of this work, it seems to me, will not be a very great task, and I inquire of the Senator, Could not the Treasury Department with its present force attend to this business?

Mr. CLARKE of Arkansas. Well, Mr. President, those who will be in charge of the administrative end of this matter seem to think that it will be necessary to establish a bureau consisting of persons who are familiar with the technical features of this particular business; that the ordinary employees of the Treasury Department do not have that technical knowledge of the business of insurance that will enable them to dispose of it as expeditiously and correctly as that business ought under existing emergencies to be attended to.

Mr. GALLINGER. I will ask the Senator, because I have not read the bill carefully, whether, this being an emergency measure, it provides that the bureau shall go out of existence when the emergency ceases, and, if not, ought not the bill to so provide?

Mr. CLARKE of Arkansas. Section 9 provides:

That the President is authorized to suspend the operation of this act whenever he shall find that the necessity for further war-risk insurance by the Government has ceased to exist.

Mr. GALLINGER. I think that is a wise provision.

Mr. CLARKE of Arkansas. The bill is well guarded. It was submitted to the Committee on Commerce, and at the meeting of that committee there was a very large attendance of its members, and such defects as were deemed to exist have been cured by amendment. The bill meets the unanimous approval of that committee. The text bill was originally worked out by a joint committee of business men, shippers, and insurance men, together with such experts as the Treasury Department could call to its aid.

Mr. GALLINGER. I have no doubt the bill has been very carefully examined and very carefully considered by the committee, and I am very strongly in favor of the proposed legislation, because unless the Government does in some way protect the shippers in these foreign-built vessels I am satisfied the rates of insurance would be prohibitive.

Mr. CLARKE of Arkansas. That has been indicated by the recent action of the insurance companies.

Mr. JONES. Mr. President——

The VICE PRESIDENT. Does the Senator from Arkansas yield to the Senator from Washington?

Mr. CLARKE of Arkansas. I am very glad to yield to the Senator from Washington.

Mr. JONES. I want to do everything that is necessary and proper, of course, in the present emergency; but does not the Senator think that our situation is entirely different from that of England or France or any of the countries that are at war?

Mr. CLARKE of Arkansas. In many respects it is.

Mr. JONES. We are a neutral power, and our ships, flying our flag, will be neutral ships, and they are not subject to attack by these warring nations like the English or German ships are. We are not a belligerent nation; they are.

Mr. CLARKE of Arkansas. That is correct; but that is only one feature of the risk covered by the contracts of insurance authorized by this bill. Our ships might run on a mine. Our ships might have aboard something that one of the belligerents might deem contraband and be seized because of this. There are a great many vicissitudes of the sea not covered by ordinary marine insurance.

Mr. JONES. Suppose one of our ships does have on board something that is contraband. Is this Government going to protect and encourage the trade in contraband goods, and will not that be the result of this legislation?

Mr. CLARKE of Arkansas. That would depend altogether on the intent. If it were one of the well-known articles of absolute contraband, or if there were evidence otherwise that the ship was engaged in unlawful traffic, every contract growing out of that relationship would, of course, be deemed void.

Mr. JONES. It seems to me, from what the Senator says, that this is an invitation for these people to engage in contraband shipment, because it says——

Mr. CLARKE of Arkansas. No; the Senator misunderstood me. If I made any such impression on his mind, I did not intend to do so.

Mr. JONES. I thought not; and yet it seems to me this legislation would invite that very thing.

Mr. CLARKE of Arkansas. I assumed that the Senator from Washington was a better seaman than I am——

Mr. JONES. No.

Mr. CLARKE of Arkansas. And that he would understand what war risks are. They are not all confined to a seizure by a belligerent.

Mr. JONES. It seems to me very strange that a few days ago, when we were urging that we should have some legislation to let in foreign-built ships under our flag, there were such a great many of them that were anxious to get under it, and now they seem to hold off until the Government gets behind

them and protects them with an insurance system in carrying these cargoes.

Mr. CLARKE of Arkansas. No matter whether that necessity is real or not, the situation exists, and it is the duty of this Government to provide for it.

Mr. JONES. I doubt it very much.

Mr. CLARKE of Arkansas. It is deterring persons from buying foreign-built ships and entering them under American registry in accordance with the provisions of the act recently passed by the Congress.

Mr. JONES. Why should they be afraid to get under the American flag?

Mr. CLARKE of Arkansas. They have not called upon me, and I doubt if they have called upon the Senator from Washington, to say why they should be thus afraid. They have expressed that fear in the practical way of refusing to avail themselves of the provisions of that act. It is our duty to take notice of that situation, and provide against it.

Mr. JONES. Will the Government get behind any proposition that may be put up to the Government at this time of emergency? It seems to me that instead of letting the brakes entirely loose we ought to keep the brakes on a little. We must not get hysterical and accede to all the selfish demands made upon us.

Mr. CLARKE of Arkansas. The Senator must not understand that this insurance is to be free and indiscriminate. It is to be conducted on business principles, and for proper compensation.

Mr. McCUMBER. Mr. President——

The VICE PRESIDENT. Does the Senator from Arkansas yield to the Senator from North Dakota?

Mr. CLARKE of Arkansas. Certainly.

Mr. McCUMBER. Can the Senator tell me whether or not any other neutral nations of the world are making provisions of this kind?

Mr. CLARKE of Arkansas. I can not say to the Senator that that is true. My information is confined to the countries with which we in normal times have business relations, and which are now in a state of war.

Mr. McCUMBER. I confess that the matter is a little foggy to me.

Mr. CLARKE of Arkansas. I understand that Holland has such an arrangement for war-risk insurance by the Government. It is the only one I can call to mind that is not now actively engaged in warfare.

Mr. GALLINGER. Mr. President, if the Senator will permit me to answer the interrogatory of the Senator from North Dakota, almost every other neutral nation has ships of its own in which it can convey its products. It does not have to purchase ships from belligerents or anyone else.

Mr. CLARKE of Arkansas. The answer made by the Senator from New Hampshire seems to be a very complete one.

Mr. McCUMBER. If these ships are purchased, will not they be ships of our own?

Mr. GALLINGER. They will be whitewashed ships of our own, and nothing more than that. Let me make this suggestion: Suppose a ship of foreign build starts across the seas with a cargo of grain, and Germany declares grain contraband. That ship will be in great danger of seizure on the high seas.

Mr. McCUMBER. That is just what I am leading up to. Is it the purpose of this Government to declare in the first instance what shall be contraband, as against the declaration of the powers that are at war themselves? If she assumed such a right, then she might assume that she had a right to send any of these vessels into any foreign port with breadstuffs or anything else but war material, although these things might be as beneficial to the country receiving them as the very war material itself.

I had always supposed that the international rule was that the belligerent nations were generally unmolested as to what they should deem expedient as to the shipping that should go into the ports of the countries with which they were at war, and without any preventive measures being taken by themselves. If I understand this bill, however, while it is not in direct terms such as would grant the power, it is based upon the assumption that we will load these ships with any material we see fit, and, with the Government back of them, we will send them into any port we can get them into, and as we have to back the insurance we will see to it—if necessary, with the arms and power of the Government—that no other nation shall interfere with them.

Mr. CLARKE of Arkansas. The Senator takes an extreme view of it.

Mr. McCUMBER. I am looking for trouble in a bill of this kind.

Mr. CLARKE of Arkansas. There is no trouble in it. It is a mere commercial regulation or provision to make commerce freer and to relieve it of some of the very difficulties that the Senator so plainly indicates.

Mr. NELSON. Mr. President——

The VICE PRESIDENT. Does the Senator from Arkansas yield to the Senator from Minnesota?

Mr. CLARKE of Arkansas. Yes.

Mr. NELSON. I desire to say to the Senator from North Dakota that manifestly such a policy would not include a risk covering the carrying of goods which were contraband of war. No marine policy, so far as I know, covers that point. There are a great many other war risks that are incident to a state of belligerency; but in any war-risk policy I do not think our Government, any more than any other Government, or any more than any private insurance company, would undertake to insure against the carrying of contraband goods.

Mr. CLARKE of Arkansas. That was the view I intended to present to the Senator—that every insurance contract stands upon its own facts and circumstances.

Mr. McCUMBER. Yes; but the whole question will arise here, What is contraband of war? Are we to take one position and the countries which are battling to destroy each other another position, and are we to back our position with the power of the Government?

Let us take flour, for instance. We tried to get the nations of the world to agree that flour should not be contraband of war. Now, we try to ship flour to Hamburg, we will say. Hamburg is so invested now with British men-of-war that Great Britain might reasonably say: "This is supporting my enemy"; or, if we shipped it to Liverpool, and the Germans were sufficiently powerful on the ocean, the Germans might say: "This is giving succor and support to my enemies, and I declare under these conditions that foodstuffs are contraband of war." With our insurance back of that cargo, we are forcing this Government into a position where it has to declare: "We have insured that this is not contraband, and you can not declare it to be contraband."

Mr. CLARKE of Arkansas. Mr. President, if the Senator will read the bill, a great many of the difficulties that now afflict his mind will be removed. In the first place, where the belligerents declare certain articles to be contraband, I take it for granted that neutrals will respect that declaration when notified of it. I also assume that this proposed governmental insurance will be written with the same degree of scrutiny and business judgment that would characterize the writing of a policy by a private company, and that if a boat were fitted out for the specific and direct purpose of violating the laws of neutrality it would not be insured.

Mr. McCUMBER. Then, Mr. President, this country, being a neutral country, has a right to ship its goods wherever it sees fit if they are not contraband of war, and the act is not in contravention of the rules of war declared by the belligerents. If it does that, where is the danger of our ships being seized and destroyed?

Mr. CLARKE of Arkansas. The fear of seizure, right or wrong, is only one of the risks insured against in this proposed policy. There are other risks incident to war which do not involve the violation of neutrality.

Mr. McCUMBER. I know the Senator has given one. The Senator has mentioned floating mines as one of the risks.

Mr. CLARKE of Arkansas. That is one of the dangers.

Mr. McCUMBER. There may be possibly something in this; but I anticipate that any Government that sets afloat upon the ocean, without control, mines that are liable to destroy the shipping of any nation, will in the end insure that shipping itself and will be compelled to pay for the damage.

Mr. CLARKE of Arkansas. This thing of compelling great Governments to do things they do not want to do is what has brought about some of the difficulties with which Europe is afflicted at this time.

Mr. WEEKS. Mr. President——

The VICE PRESIDENT. Does the Senator from Arkansas yield to the Senator from Massachusetts?

Mr. CLARKE of Arkansas. I yield.

Mr. WEEKS. I will suggest to the Senator from North Dakota that floating mines are not necessarily capable of changing their location when they are planted. Mines are placed to defend certain waters, and they are anchored; but as a result of storms they frequently become detached from their anchors and then become floating mines and dangerous to general navigation. The setting adrift of mines indiscriminately, I think, has never been undertaken by any nation.

What I want to say to the Senator from Arkansas, however, is that I am confident everybody wants to do everything

that is necessary to protect our interests in this emergency; and what this bill purposes to do seems to be following a course that has been adopted by belligerents on the other side, generally speaking. What I want to call to his attention is that at such a time as this we are apt to do things which are unnecessary. I assume that this bill is simply an anchor to windward, to be used in case of emergency, but not to be used in doing a general insurance business; and its value will depend on the quality of the men who are to put it into operation and their knowledge of insurance matters. Therefore, men with the very best technical knowledge on those subjects should be put in charge of this insurance bureau, with power to discriminate between the character of risks, as would be done by any other insurance company.

I am not confident that there is not ample shipping available to take all of our products to their market. A New York paper this morning states, for example, that there are 130 British ships in Atlantic ports waiting for cargoes; and somebody who wanted to send abroad a cargo of coal from Norfolk asked for bids, and 40 ships offered for that purpose. The Lloyds' risks are now lower on English ships carrying English cargoes than the risks offered by the English Government. They are down pretty nearly to normal, not over 2 to 3 per cent. I do not think we ought to go into the insurance business under those circumstances, but only when the risks become exorbitant, as they were 10 days ago.

Mr. CLARKE of Arkansas. In making that observation, has not the Senator overlooked the plain provision of the bill, which says, starting on line 14, page 2:

> Whenever it shall appear to the Secretary that American vessels, shippers, or importers in American vessels are unable in any trade to secure adequate war-risk insurance on terms of substantial equality with the vessels or shippers of other countries.

This act is only to come into operation when adequate insurance on reasonable terms can not be otherwise obtained.

Mr. WEEKS. We have been able from the beginning of hostilities, and are able to-day, to obtain insurance on better terms than any other country on our own ships and our own cargoes.

Mr. CLARKE of Arkansas. If this happy condition continues, then there will be no Government insurance.

Mr. WEEKS. If that is the understanding, I see no objection to the passage of the bill.

Mr. CLARKE of Arkansas. That is the distinct understanding, because such are the plain provisions of the bill.

Mr. LANE. Mr. President, I should like to ask the Senator from Arkansas for a little information.

The VICE PRESIDENT. Does the Senator from Arkansas yield to the Senator from Oregon?

Mr. CLARKE of Arkansas. Certainly.

Mr. LANE. I understood the Senator to say that these ships are liable to run over submarine mines, which will explode and destroy the ship and the cargo.

Mr. CLARKE of Arkansas. I did not say they were very liable to do it. They may do so.

Mr. LANE. Yes; they may do it. That is one of the risks of war. If that should happen, it would be very apt to destroy the ship, and probably destroy the lives of the members of the crew and the officers. Why not put in here a provision insuring their lives also? Why would not that be an important addition to it, and a humane one?

Mr. CLARKE of Arkansas. The ordinary life and accident insurance companies now take that risk.

Mr. LANE. Not the war risk, I think. I think they will find just as much difficulty in having their lives insured as the merchants who are endeavoring to ship their goods foreign will have in insuring their goods. Their lives are just as valuable to them as are the cargoes of these ships to their owners. It would be a humane move on the part of this Government—a little bit paternalistic, to be sure—if it would go further, and on a broader ground, and insert in the bill a provision which would allow just and reasonable insurance to the lives of the men who have to risk them in carrying this merchandise to foreign ports in dodging submarine mines and other sources of danger.

I should like to ask the Senator from Arkansas if he would be willing to put in an amendment to that effect, in addition to the other provisions of the bill?

Mr. CLARKE of Arkansas. It could not be put in this bill without delaying its passage, and probably jeopardizing it, for the reason that it would involve the introduction of a complete code of life and accident insurance laws. There is no demonstrated necessity for any such relief, because the ordinary insurance companies now take risks of that character.

Mr. LANE. Mr. President, I should like to say that the laws of life insurance are the best established of the laws of any line of insurance. There are none so well settled, none at all that have been worked out with the precision that those have. I think the Senator is mistaken there. I think it would give this bill a better appearance and add to its value to the people and make them have a great deal more respect for it than they will have for a bill which merely looks out for mercantile affairs and profits.

Mr. CLARKE of Arkansas. The Senator is entirely mistaken. In looking out for commerce we are looking out for the people. We are as much interested in having our surplus agricultural and manufactured products transported to countries where they can be sold as the people who are to buy them. We owe large balances in Europe which must be paid either in gold or in the products of this country, and it goes to the very foundation of this country's prosperity to have adequate shipping facilities at this time. The existing emergency has nothing whatever to do with the matter of life insurance.

Mr. WEEKS. Mr. President, I should like to ask the Senator one more question.

The VICE PRESIDENT. Does the Senator from Arkansas further yield to the Senator from Massachusetts?

Mr. CLARKE of Arkansas. Certainly.

Mr. WEEKS. Does the Senator think he can assure the Senate that this bill will not be put in operation—that is to say, that the risk will not be assumed—if the rates of insurance which American shippers, ships, and cargoes can obtain are reasonable and are lower than the rates imposed on other risks?

Mr. CLARKE of Arkansas. Certainly not, because the President is authorized to suspend the operation of the act whenever an adequate supply of war-risk insurance can be obtained. Section 9 is an absolute and specific direction on that point.

Mr. CLARK of Wyoming. Mr. President——

Mr. LANE. Mr. President, I should like to offer an amendment at this time.

The VICE PRESIDENT. Amendments are not yet in order.

Mr. LANE. All right. I will offer it when they are in order, then.

The VICE PRESIDENT. Does the Senator from Arkansas yield to the Senator from Wyoming?

Mr. CLARKE of Arkansas. Certainly.

Mr. CLARK of Wyoming. The Senator expresses unlimited confidence in the assumed fact that if the law authorizes the suspension of the operation of an established bureau when the necessity fails for the bureau's work it will be suspended. I think the Senator is pretty optimistic. I have never known a bureau to be created in any of the executive departments that even confined itself to the original idea for which the bureau was created. It not only hangs on but it increases and adds to and magnifies its operations. We have had that time after time. I am afraid the Senator is too optimistic. I think he will find that this will be a permanent bureau.

The Senator in his reply to the Senator from Massachusetts said it was thought that this bureau ought to be established in the Treasury Department because the employees of the Treasury Department, the Assistant Secretary and heads of bureaus there now, are probably not qualified to carry on the technical part of this business. I think the Senator forgot in that reply that another section of the bill furnished us the technical information and knowledge and experience.

Mr. CLARKE of Arkansas. Experts are to be called for the purpose of establishing effective working rules and regulations.

Mr. CLARK of Wyoming. Yes; and generally in carrying out the purposes of this act. There is a board of experts to-day to act with this bureau that is created in the Treasury Department.

Mr. CLARKE of Arkansas. That is a matter of detail.

Mr. CLARK of Wyoming. But it is a board that is created the same as the bureau is created, on the assumption, I suppose, that the expert service which the Senator mentions is really required. Is it expected in that particular bureau of the Treasury Department that the expert service there is to be rendered by people called on from outside without limitation as to salary, and that the Secretary of the Treasury can pay as much for expert service as insurance companies pay?

I am afraid the Senator is building up here a bureau in the Treasury Department that is not only going to be permanent, but, like every other bureau of the Government in connection with the various activities of the Government, is going to increase and magnify itself until it will result in a tremendous expenditure, as some of the other bureaus have done.

Mr. CLARKE of Arkansas. That is simply an incident of administration, and one of the abuses inseparable from government.

Mr. CLARK of Wyoming. I think it is a matter to be considered. If the Senator will bear with me I might say that I agree with the Senator from Massachusetts. I can not see that

the emergency necessary for this measure really exists. In the first place, I do not believe that the Government——

Mr. CLARKE of Arkansas. Probably the Senator is not aware of the fact that within two weeks the rate has been 10 per cent between this country and England.

Mr. CLARK of Wyoming. The Senator is aware of the fact that now it is 5 per cent; that the rate has been cut in two.

Mr. CLARKE of Arkansas. That is true, but it is still high.

Mr. CLARK of Wyoming. I have no doubt that the risk may be something more than normal in time of war, but while the risk may be something more than normal in time of war, I can not see how the Government can, as a business proposition, and that is what this is, write insurance and give accommodation any cheaper or any better than an ordinary insurance company. The Government is not seeking to assume risks. The Government is assuming——

Mr. CLARKE of Arkansas. The private insurance companies are conducted for the purpose of making profit. This bill provides for one of the burdens growing out of the situation. The United States Government is disposed to take care of this not for profit, but will do so even if it should involve a loss.

Mr. CLARK of Wyoming. There is the question. Is this bill intended as a losing proposition for the Government?

Mr. CLARKE of Arkansas. Rather than see our commerce driven off the seas; yes.

Mr. CLARK of Wyoming. In other words, is it intended as an insurance or is it intended as a guaranty?

Mr. CLARKE of Arkansas. The Senator is familiar with the terms of the bill, and he can characterize them to suit himself.

Mr. CLARK of Wyoming. It is a fact that we have passed a law here providing for the admission of foreign ships to registry. This bill is urged as an inducement for that registration.

Mr. CLARKE of Arkansas. As a supplement to that bill.

Mr. CLARK of Wyoming. As a supplement to that bill, because of the fact that those ships can come into American registry, as I understand the Senator.

Mr. CLARKE of Arkansas. That is a correct statement of the case.

Mr. CLARK of Wyoming. No emergency, it seems to me, has arisen—it has not crystallized yet; but do I understand the Senator to say the Government will purchase ships to go into American registry?

Mr. CLARKE of Arkansas. That proposed measure is not related to this particular bill.

Mr. CLARK of Wyoming. I know; but all through we realize the fact that we would have our flags on the seas carrying our commerce. It seems to me that while, perhaps, this bill may be necessary I can not see that it is so necessary as the Senator from Arkansas indicates, nor do I see any necessity under an emergency of this sort to provide for a great bureau.

Mr. CLARKE of Arkansas. I agree with the Senator in any view he may hold about there being too many public offices, but we can not reform all such abuses in this little bill.

Mr. CLARK of Wyoming. No; but we can minimize them.

Mr. CLARKE of Arkansas. The chances are that this bureau will not be in existence for three months.

Mr. CLARK of Wyoming. There never has been a bureau created by Congress that has ever gone out of existence. We had a railroad commission, when for 20 years the commissioner sat in his office here and drew a high salary and never did a lick of work in or out of his office.

Mr. CLARKE of Arkansas. He was a Government director in a subsidized railroad. The Senator was here at that time. Why did he not change that law?

Mr. CLARK of Wyoming. Good heavens, you can not change a matter of that sort.

Mr. CLARKE of Arkansas. Then why impose on me the duty of doing it now?

Mr. CLARK of Wyoming. But we have these evils present with us. What is the necessity of adding other things unless very plainly a necessity does occur, and why not guard it in some shape? There is no limit placed on the size of this bureau. There is no limit placed on the salaries which shall be paid.

Mr. CLARKE of Arkansas. Except the common sense and patriotism of those who administer it.

Mr. CLARK of Wyoming. But we know very well how short a distance common sense and patriotism go in an administration.

Mr. CLARKE of Arkansas. Whenever we get to that point we will not need any ships.

Mr. CLARK of Wyoming. The Senator has not had experience the same as I have with some of the bureaus of the Government.

Mr. CLARKE of Arkansas. I have had a very limited personal experience with bureaus or their chiefs.

Mr. CLARK of Wyoming. The Senator is very fortunate in that respect. If he had had experience as some Senators have he would dread this formation of new bureaus in the Government, because he would know that they grow on their own work, and where they can not find things they ought to do they will find things that they want to do.

Mr. CLARKE of Arkansas. This bill has been safeguarded to a greater degree than any one ever before passed creating a bureau, because it makes it obligatory upon the conscience and honor of the President to terminate the whole business whenever the necessity has passed away; and that he will do so, I have not the slightest doubt.

Mr. CLARK of Wyoming. I am scared of it.

Mr. GRONNA. Mr. President, I simply wish to add to what the Senator from Arkansas has said that I have information that rates have been charged as high as 20 per cent.

Mr. CLARKE of Arkansas. I heard a statement of that kind made as coming from the senior Senator from Maryland [Mr. SMITH], that a ship sailed from Baltimore loaded with wheat and that the rate of insurance exacted was 20 per cent. Whether the Senator from Maryland actually made that statement or not I do not know, but I heard from an apparently reliable source that he did.

Mr. GRONNA. I believe that we should pass this bill, for unless some legislation is had so that the Government will take some risks these rates are prohibitive, and the bill which was recently passed authorizing the Government to allow foreign ships to take American registry will practically be of no value to the producer.

Mr. CLARK of Wyoming. Whatever they may be the rates are not prohibitive, because the people who have to have the wheat are going to pay for it, and they are going to pay for it with insurance added. This insurance, whatever it may be, will not come against the shipper of the wheat; it will come against the people who buy the wheat.

Mr. GRONNA. It will come against the producer of the wheat.

Mr. CLARK of Wyoming. No; it will not come against the producer.

Mr. GRONNA. When a man buys a product, whatever it may be, every cost will be deducted from the price.

Mr. CLARK of Wyoming. The Senator has had that idea for many years.

Mr. WEST. Mr. President——

Mr. CLARKE of Arkansas. Mr. President, I will conclude what I have to say.

Mr. CLARK of Wyoming. I beg the Senator's pardon.

Mr. CLARKE of Arkansas. I will conclude in a very few words.

Mr. WALSH. Before the Senator concludes I should like to inquire of him whether his understanding is that the proposed insurance is to cover the ordinary risks of the sea?

Mr. CLARKE of Arkansas. It is not.

Mr. WALSH. That is to say, the ship will be obliged to carry two policies?

Mr. CLARKE of Arkansas. Yes; it will require two policies—the ordinary marine insurance, which covers the ordinary marine risks, and this war insurance, which covers the risks peculiar to the state of war, and distinct in character from the usual marine risks incident to sea transportation in times of peace.

Mr. WALSH. Is it the idea of the Senator that it will be possible to make this effort on the part of the Government under those circumstances self-supporting?

Mr. CLARKE of Arkansas. The belief is that except as to foreign-built ships which will come under American registry by the terms of the act recently passed the insurance afforded by private companies will be adequate. There is supposed to attach to such ships the disabilities of their former ownership that amounts to an appreciable element of danger, which is sufficient to somewhat deter proposed purchasers who would otherwise avail themselves of the liberal provisions of the act just recently passed by Congress.

Mr. WALSH. That was not my question.

Mr. CLARKE of Arkansas. Which particular element of war risk will not be promptly and generally assumed by existing insurance companies. It is a new character of risk in this country, and private insurance companies at the present time seem slow in assuming it.

Mr. WALSH. The question I asked the Senator was whether he believed that the ordinary marine insurance being excluded, and the insurance being only with reference to war risks, the business the Government now undertakes to go into will be self-supporting; that is to say, that the returns will be equal to the losses?

Mr. CLARKE of Arkansas. That is a matter of conjecture. The belief is that it will be self-sustaining. Generally speaking, those who are scientifically informed about insurance know that it is an exceedingly profitable business in all its branches.

Mr. GRONNA. If the Senator from Arkansas will further permit me, I wish to suggest that if this law does nothing more for the citizens of the Government, it will be the means of regulating the rate of insurance. If it does nothing more than that, I believe it will serve a good purpose.

Mr. JONES. Will the Senator from Arkansas allow me to ask him whether there would be any objection to adding to section 10 "to continue in force not to exceed two years"?

Mr. CLARKE of Arkansas. I do not think that is necessary. I am sure it will not endure for that length of time. We can not foretell what actual conditions may be during two years. There would be no occasion for continuing it two years if the war should be terminated in two months.

Mr. JONES. The President has the power under section 9 to fix the particular time; but would the Senator have any objection to put in some absolute limitation, say at the end of two years?

Mr. CLARKE of Arkansas. The Senator can not read the entire bill without reaching the conclusion that it is completely shown that this emergency bill is a temporary measure.

Mr. JONES. But I very much agree with the Senator from Wyoming that when you establish a bureau you can not get rid of it. The President may act, of course, honestly, but he has to act on the recommendation of the persons who are to be continued, and they never recommend either to do away with their salaries or to diminish their power or authority.

Mr. CLARK of Wyoming. Of course the Senator will bear in mind that the employees of this bureau at $3,000 a year are under the Government permanently, whether the bureau goes on or not, because they are in the civil service.

Mr. CLARKE of Arkansas. I presume they will be included in the civil service, or they are there now.

Mr. CLARK of Wyoming. No.

Mr. CLARKE of Arkansas. They would be chosen from the existing civil-service employees, I take it for granted, by promotion and transfer.

Mr. GALLINGER. They are on the waiting list now.

Mr. CLARKE of Arkansas. That feature of the matter I have not prepared myself to go into very largely. I do not know that I disagree with the Senator from Wyoming about it.

Mr. McCUMBER. Mr. President, I can see a good feature in the bill. The really good feature I can see is that suggested by my colleague [Mr. GRONNA]. I can see no reason why there should have been an exorbitant demand for rates of insurance on neutral goods. I think the insurance companies were taking advantage of a condition to raise their rates where there was absolutely no cause for raising them whatever. So far as the Government saying to these companies, "If you will not insure for a reasonable rate, if you propose to take advantage of the American people and raise the rate and compel them to pay exorbitant prices in this emergency, I will step in and see that you do not do it," I am inclined to think that just as soon as the Government puts itself in a position where it will go into the insurance business our insurance will be exactly as it has been in the past, and the war risks will not increase it to any appreciable extent.

I made this suggestion with the idea of calling the Senator's attention to an amendment which I think might well be adopted, and to ask him if he would have any opposition to it. Of course, the Senator says you can cease to go on with your insurance whenever conditions make it such that the President may think he ought not to continue it. But suppose the conditions for ceasing arise before you begin your insurance. Suppose there is no demand for it whatever by the time you get this board organized, then would the Senator object to inserting on page 3 to line 6 the words:

Provided, That no insurance shall be made hereunder unless reasonable insurance can not be otherwise obtained.

Mr. CLARKE of Arkansas. That is the very language of the bill at the present time. If the Senator will read section 2, he will discover that that is exactly the provision in the bill now.

Mr. McCUMBER. Will the Senator read me the section?

Mr. CLARKE of Arkansas. I will read the entire section:

SEC. 2. That the said bureau of war-risk insurance, subject to the general direction of the Secretary of the Treasury, shall, as soon as practicable, make provisions for the insurance by the United States of American vessels, their freight and passage moneys, and cargoes shipped or to be shipped therein, against loss or damage by the risks of war, whenever it shall appear to the Secretary that American vessels, shippers, or importers in American vessels are unable in any trade to secure adequate war-risk insurance.

Mr. McCUMBER. I do not think that is the same, because I should naturally expect that the British Government, being a belligerent, or the German Government, being a belligerent, would have to have its risks very heavy, while the American Government, being neutral, its citizens are practically running no risk at all unless they disobey the ordinary rules of warfare and the conditions that affect the belligerents in war.

Mr. CLARKE of Arkansas. Those are matters of detail that can be taken care of by regulations. To determine what is reasonable in any given case involves the consideration of all relevant and connected things and situations.

Mr. McCUMBER. I know it can; but I want to prevent the Government from going into insurance unless it is necessary. It does seem to me if the Senator believes it ought not to go into it unless it is necessary he might consent to the amendment.

Mr. WEST. Does not section 9 cover the Senator's objection?

Mr. CLARKE of Arkansas. That has been read four or five times. If the Senator from North Dakota is not familiar with it now, reading it another time will not enlighten him.

Mr. GALLINGER. When the Senator from Arkansas read the section to the Senate he properly read it. In line 14 should it not be "whenever"? It is printed "wherever." I think it ought to be "whenever."

Mr. CLARKE of Arkansas. That is an obvious error. That correction should be made. In line 14 it should read "whenever it shall appear."

Mr. GALLINGER. The Senator read it right. That is correct.

Mr. CLARKE of Arkansas. It is an obvious error. That correction should be made.

This is not a matter that has been jumped up without due appreciation of its importance. It is the result of serious and exhaustive investigation and consideration by the representatives of those most directly interested in the many phases of the question, and no part of our people are more largely interested in it than those who want to sell our surplus to European consumers. The measure is proposed for the purpose of giving confidence in and vitality to the recent act which was passed authorizing the registry of foreign-built ships under our law, and to make out of it an effective system of navigation from which we can get practical and immediate results.

This insurance feature was not originally a part of the scheme to aid our export shipping in the present emergency, for the reason that the assumption was indulged that private enterprise would take care of the insurance risks, but a state of affairs has been developed which indicates that that will not be done in the case of newly acquired foreign bottoms, and that this measure is an absolute necessity. Therefore the administration feels that it would fall short of its duty if it did not present some such supplemental remedy as this, and I hope the bill will be passed.

Mr. WILLIAMS. Mr. President, I think we may well congratulate ourselves upon the careful manner in which the provisions of the bill meet a real existing emergency. I would not take up the time of the Senate five minutes this morning and delay its passage even that long but for a fact somewhat personal to myself.

I have expressed my opposition to what I understood from the newspapers to be the provisions of the proposed measure, and I expressed it upon the ground that the United States Government was taking all the risk and going to bear all the loss and secure none of the profits. This bill meets that objection fully, and therefore meets the objection which I had to the supposed measure. This bill gives the profit, if any, as well as the loss, if any, to the Government. I heartily indorse the bill. I think it is absolutely necessary. I have made these few remarks to explain an apparent though not a real change of front on my part.

It has been said by the Senator from Massachusetts [Mr. WEEKS] and, I believe, by the Senator from North Dakota [Mr. MCCUMBER], that the present marine insurance rates are low enough. That is very true; but some time ago they were from 10 to 20 per cent; and the very same parties that have recently lowered the rates can raise them whenever they get ready. Perhaps one reason why the rates went down was the anticipation of the passage of some such legislation as this.

I think the chief benefit from this bill is not going to grow out of any actual insurance by the United States Government of ships and cargoes against war risks, but will come from the fact that the moral effect of the passage of the legislation will

be such as to prevent private companies from unjustifiably raising their rates again. So long as they are not forced to raise their rates by actual commercial necessity, with this bill upon the statute books they dare not do so, because if they do the United States Government will take the business which is a source of profit to them.

Mr. President, one part of the bill, section 9, the Senator from Arkansas [Mr. CLARKE] a moment ago declined to read because it had been read often enough; but I will read it, because it seems to me that some Senators have not fully caught it. Section 9 reads:

That the President is authorized to suspend the operation of this act whenever he shall find that the necessity for further war-risk insurance by the Government has ceased to exist.

I have absolute confidence in the present President of the United States. I know that he does not desire that this sort of legislation shall become a permanent feature of the governmental policy of the United States, and that he will welcome the very first opportunity to dispense with it. I have a great deal of sympathy with what was said by the Senator from Wyoming [Mr. CLARK]. It is very difficult to organize a commission which will ever cease to be a commission and the members of which will ever cease to draw salaries; but that grows out of the fact that hitherto commissions have been left to determine for themselves when they had finished their work, and, desiring to maintain their positions, to keep drawing their salaries, they have extended their work as long a time as they could. I once had a friend who served upon one of these commissions. I went to him and asked, "When do you think your commission will be through with its labors?" He said: "John, by skillful management I hope the commission will last as long as I do." [Laughter.] This bill, however, provides for the termination of the commission by the President, and in his discretion.

It has been suggested that we fix a definite period for its termination; two years was suggested. If we do, that would be taken as an excuse to continue this commission and its employees in operation for two years, even if the war ended in six months. It is like putting into a bill that a man shall receive "expenses not to exceed $10 a day," in which event the expenses never fall below that sum.

Mr. WEEKS. Mr. President——

The VICE PRESIDENT. Does the Senator from Mississippi yield to the Senator from Massachusetts?

Mr. WILLIAMS. I do.

Mr. WEEKS. I propose to offer an amendment that in any case the bureau shall be discontinued when the belligerent nations have made a treaty of peace. Does the Senator from Mississippi see any objection to that amendment?

Mr. WILLIAMS. Yes; I see this objection to that: There might be policies in operation and unadjusted at that time. I would see no objection to some period after the reestablishment of peace, but I see no necessity for either amendment. I am satisfied that the President of the United States will terminate this commission at the very first practicable moment. I am just as well satisfied of that as if I myself were President with my views upon matters of this sort. I substantially know from reading his past utterances those views to be his, and I know that a man as well equipped, as well experienced, and one who knows as much about the Government of the United States as does the President would be just as far removed as any Senator in this Chamber would be from desiring to continue as a permanent feature of the United States Government or for an unnecessarily long time legislation of this character.

Mr. CLARKE of Arkansas. I think we could meet the objection of the Senator from Massachusetts [Mr. WEEKS] by substituting the word "terminate" for the word "suspend," so as to make the section read:

SEC. 9. That the President is authorized to terminate the operation of this act whenever he shall find that the necessity for further war-risk insurance by the Government has ceased to exist.

Mr. OVERMAN. "Shall terminate."

Mr. CLARKE of Arkansas. Well, make it read—

That the President shall terminate.

Mr. WILLIAMS. That is better still.

Mr. POMERENE. What objection would there be to providing in the bill itself that no new policy of insurance shall be issued after a treaty of peace shall be signed?

Mr. CLARKE of Arkansas. The amendment I suggest will put an end to the whole business. I propose an amendment to section 9, so that it will read—

That the President shall terminate—

Not "may," but "shall"—

shall terminate the operation of this act whenever he shall find that the necessity for further war-risk insurance by the Government has ceased to exist.

Mr. THOMAS. Mr. President, I shall of course not oppose the amendment to the bill suggested by the chairman of the committee [Mr. CLARKE of Arkansas], as it seems to meet the views of a number of Senators. I want to say, before the vote is taken, however, that personally I approve of this measure as being the first step in the proper direction. I believe in Government insurance, and I believe that this is going to be so successful as demonstrating not only the exercise of the governmental power but also as a matter of revenue, that no one will want to see it abolished, but rather will prefer to see it extended so that marine insurance, as such, will come under the domain of governmental jurisdiction. I hope that that will be followed by its extension in other lines of insurance, so that the enormous profits which this business now directs and diverts into private channels will become a source of national revenue.

Mr. McCUMBER. Mr. President, the Senator having this bill in charge may slur over certain of its provisions, and say that if the Senator from North Dakota does not understand it he can not make it any clearer, but——

Mr. CLARKE of Arkansas. The Senator from Arkansas was not directing his remarks to the Senator from North Dakota. I said that section 9 had been read several times, and the Senator did not ask that it be again read. I assumed that he understood it.

Mr. McCUMBER. But there is one thing certain as to section 2.

Mr. CLARKE of Arkansas. What is that?

Mr. McCUMBER. It is this: You have authorized the Government to assume war risks upon the basis of a belligerent; in other words, we can fix our rates, but the basis of the rates to be fixed are those fixed by belligerents actually engaged in war. A German vessel may at any time be seized by a British man-of-war, a British vessel may at any time be seized by a German man-of-war, but neither German nor British has any right to seize our vessels in peaceful and lawful commerce, though they can seize the vessels of each other. Therefore, if the Government of Great Britain or the Government of Germany considers 10 per cent or 20 per cent as a proper war risk, then, if this Government, under the provisions of section 2 of the bill, will equalize its rates with those of the belligerents, we shall have complied with this proposed law.

Now I am going to call the Senator's attention, in all good faith, to that provision, under which I insist this country will be placed in the position of a belligerent in ascertaining the basis for the insurance provided for in the pending bill, because the bill provides:

SEC. 2. That the said bureau of war-risk insurance, subject to the general direction of the Secretary of the Treasury, shall, as soon as practicable, make provisions for the insurance by the United States of American vessels, their freight and passage moneys, and cargoes shipped or to be shipped therein, against loss or damage by the risks of war.

Now, listen to this:

Wherever it shall appear to the Secretary that American vessels, shippers, or importers in American vessels are unable in any trade to secure adequate war-risk insurance on terms of substantial equality with the vessels or shippers of other countries—

Not neutral countries, but "other countries"—

because of the protection given such vessels or shippers by their respective Governments through war-risk insurance.

In other words, if the insurance companies of this country say that they will not take insurance for less than 15 per cent, and it so happens that Great Britain, a party to the war, is willing to insure British vessels at 10 per cent, the Government will be authorized to equalize the British insurance by making the rate 10 per cent, when, as a matter of fact, it ought not to be 2 per cent, because there is substantially no risk which American vessels will undergo in the transportation of ordinary goods, as they will fly the flag of a neutral power.

Mr. CLARKE of Arkansas. All we propose to do is to put our ships on a footing of equality with other ships with which they have to compete. If the war rate of one of the belligerents is excessively high, the chances are that would be notice that there was some considerable risk in that particular trade, or if the risk did not exist in fact, then the insurance companies would accept the business and the Government would not be called upon to write the insurance. The measure is temporary in one sense, but it is alternative; it is rather a precautionary measure, so that there may be some place in which legitimate risks of this kind can be written, if private insurance companies will not take them.

Mr. McCUMBER. That is not what we want to secure, Mr. President. I insist that we want to secure reasonable insurance, not merely competitive insurance with British vessels. The Senator can not show that it is necessary to charge any more than ordinary rates at this time, or at least only a trifle more than ordinary rates, due possibly to the fact

that in some quarters of the world there may be mines that have broken away from their moorings and are afloat. Is there any reason on earth why an American maritime insurance company should charge any more for insuring an American cargo from New York to Buenos Aires to-day than at any other time?

Mr. CLARKE of Arkansas. I think not.

Mr. McCUMBER. Certainly not. There is no reason for its charging any more to insure a lawful cargo destined to a neutral port, other than the possibility of such minor risks as the Senator has mentioned; and yet if those companies should insist on maintaining an unreasonable rate, all the Government would have to do—and it would be justified in doing it under this bill—would be to make a rate that would equalize the German or the British rate upon cargoes which are subject to seizure at any time by the vessels of the other belligerent nation. That is not what I supposed I was to vote for in this bill; I supposed that we were to provide insurance at rates which would be reasonable.

Mr. CLARKE of Arkansas. The theory of the bill is to leave the business of insuring ships to private companies as long as they will take the risks.

Mr. McCUMBER. As long as they will take them at what rate?

Mr. CLARKE of Arkansas. At whatever seems to be a reasonable rate, in view of all the circumstances.

Mr. McCUMBER. That is not the way the bill reads; it says at whatever rates will equalize the rates which are fixed by the belligerents.

Mr. CLARKE of Arkansas. That is the dominating rate; that is the influence that will fix the rate; and we propose to do as much for our ships as the other Governments have done for theirs, with such changes in rates and stipulations as the circumstances will justify.

Mr. McCUMBER. Why should we not do more? Why should we not force a reasonable insurance rate? Why should not the Government charge according to the risk? If there is actually no more risk to-day than there was two months ago, but private companies will not insure at the same old rate, then the Government should insure at those rates, and should not take as its basis the insurance rates that are fixed by Germany and Great Britain upon British and German vessels.

Mr. LEWIS. Mr. President——

The VICE PRESIDENT. Does the Senator from Arkansas yield to the Senator from Illinois?

Mr. CLARKE of Arkansas. I yield to the Senator.

Mr. LEWIS. I thought the Senator had finished his response to the interrogations of the Senator from North Dakota. If the Senator from Arkansas has concluded his response to the Senator from North Dakota——

Mr. CLARKE of Arkansas. I have not finished as to that matter. I desire to submit merely one further observation. The theory upon which this bill is drafted is that the Government does not want to go into the insurance business unless it is absolutely necessary to accomplish the wiser purpose of promoting our commerce.

If private enterprise will not take up these risks on terms that the shippers can afford to pay, then the Government stands there ready to take them on such terms as will create an equality between our ships and the ships with which they have to compete on the seas.

Mr. LEWIS. Mr. President, may I ask the chairman of the committee, the Senator from Arkansas, a question for information?

Mr. CLARKE of Arkansas. Certainly.

Mr. LEWIS. My attention has been attracted to section 2, and I might say to the Senator from Arkansas that that provision being carried through the whole bill impresses me with the idea that the bill limits insurance to war risks.

Mr. CLARKE of Arkansas. Absolutely.

Mr. LEWIS. Then, I ask the learned Senator if a ship should seek to insure against fire, collision, or general marine disasters apart from the risks of war, it would still have to take out a policy from a private company?

Mr. CLARKE of Arkansas. That is true.

Mr. LEWIS. Then, would not the private companies still be in a position of exacting the same severe prices for that other necessary policy? If so, it seems to me that we have gotten no further than to provide insurance for half of a ship, or half of a voyage, or half of a cargo, the other half or the other half interest remaining still uninsured, leaving the ship in those respects still uninsured.

Mr. CLARKE of Arkansas. That is a business matter that competition will take care of. There is an adequate and more than sufficient insurance available at this time, and there is not any reason why they should not take that risk at fair rates now. If, however, a combination should be created, that would then constitute an evil that might be dealt with hereafter; but no such contingency as that exists at the present time.

Mr. LEWIS. So that, if I understand the chairman of the committee, it was within the mind of the committee that the object of this bill at present was to cover no other risks than those of war, leaving all the ordinary risks of the sea, apart from war risks, to be dealt with by private companies—private interests?

Mr. CLARKE of Arkansas. The Senator is right about that.

The VICE PRESIDENT. The Secretary will read the bill.

The Secretary proceeded to read the bill.

Mr. CLARKE of Arkansas. I ask that the formal reading of the bill may be dispensed with and that it be read for amendment, the amendments of the committee to be first considered.

The VICE PRESIDENT. Is there objection? The Chair hears none, and the Secretary will state the first amendment reported by the committee.

The first amendment was, in section 2, page 2, line 11, after the word "insurance," to insert "by the United States," and in the same line, after the word "vessels," to insert "their freight and passage moneys," so as to read:

That the said bureau of war-risk insurance, subject to the general direction of the Secretary of the Treasury, shall, as soon as practicable, make provisions for the insurance by the United States of American vessels, their freight and passage moneys, and cargoes, etc.

Mr. LANE. Mr. President, is this the proper time for me to offer my amendment?

The VICE PRESIDENT. The rule has always been in the Senate to read the bill first for committee amendments, and then afterwards it will be open to other amendments.

Mr. LANE. Very well.

The VICE PRESIDENT. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. CLARKE of Arkansas. Mr. President, did the Secretary take notice of the amendment in line 14, page 2, where the word "wherever" should be made "whenever"?

The VICE PRESIDENT. We have not reached it yet.

The SECRETARY. In section 2, page 2, line 14, after the word "war," it is proposed to strike out "wherever" and insert "whenever."

The amendment was agreed to.

The next amendment was, in section 2, page 2, line 15, after the word "vessels," to strike out "or," and in the same line, after the word "shippers," to insert "or importers," so as to read:

Whenever it shall appear to the Secretary that American vessels, shippers or importers in American vessels are unable in any trade to secure adequate war-risk insurance on terms of substantial equality with the vessels or shippers of other countries because of the protection given such vessels or shippers by their respective Governments through war-risk insurance.

The amendment was agreed to.

The next amendment was, in section 3, page 2, line 25, after the word "vessels," to insert "their freight and passage moneys"; on page 3, line 3, before the word "cargoes," to strike out the word "their," and on the same page, line 2, after the word "each," to strike out "country" and insert "port," so as to make the section read:

SEC. 3. That the bureau of war-risk insurance, with the approval of the Secretary of the Treasury, is hereby authorized to adopt and publish a form of war-risk policy and to fix reasonable rates of premium for the insurance of American vessels, their freight and passage moneys and cargoes, against war risks, which rates shall be subject to such change, to each port and for each class, as the Secretary shall find may be required by the circumstances. The proceeds of the aforesaid premiums when received shall be covered into the Treasury of the United States.

The amendment was agreed to.

The next amendment was, in section 5, page 3, line 16, after the word "losses," to insert "and generally in carrying out the purposes of this act," so as to make the section read:

SEC. 5. That the Secretary of the Treasury is authorized to establish an advisory board, to consist of three members skilled in the practices of war-risk insurance, for the purpose of assisting the bureau of war-risk insurance in fixing rates of premium and in adjustment of claims for losses, and generally in carrying out the purposes of this act; the compensation of the members of said board to be determined by the Secretary of the Treasury. In the event of disagreement as to the claim for losses, or amount thereof, between the said bureau and the parties to such contract of insurance, an action on the claim may be brought against the United States in the district court of the United States, sitting in admiralty, in the district in which the claimant or his agent may reside.

The amendment was agreed to.

Mr. CLARKE of Arkansas. Mr. President, in line 19, page 4, I move to strike out the words "is authorized to suspend" and insert "shall terminate."

The VICE PRESIDENT. The amendment will be stated.

The SECRETARY. In section 9, page 4, line 19, after the word "President," it is proposed to strike out the words "is authorized to suspend" and insert the words "shall terminate."

The amendment was agreed to.

Mr. GALLINGER. Mr. President, I have no disposition to interfere at all with this bill, and if the Senator thinks this is an unwise suggestion it will be immediately dropped. I will ask the Senator, in view of the fact that these bureaus and commissions do dawdle along for years after their work is practically accomplished, if it might not be well to say:

The President shall terminate the operation of this act whenever he shall find that the necessity for further war-risk insurance by the Government has ceased to exist, and shall abolish the bureau as soon as its work has been completed.

Mr. CLARKE of Arkansas. That is entirely satisfactory.

Mr. GALLINGER. I offer that amendment.

The VICE PRESIDENT. The amendment will be stated.

The SECRETARY. In section 9, page 4, line 22, after the word "exist," it is proposed to insert "and shall abolish the bureau as soon as its work has been completed," so as to make the section read:

SEC. 9. That the President shall terminate the operation of this act whenever he shall find that the necessity for further war-risk insurance by the Government has ceased to exist, and shall abolish the bureau as soon as its work has been completed.

The amendment was agreed to.

The VICE PRESIDENT. The bill is in Committee of the Whole and open to amendment.

Mr. LANE. Mr. President, I wish to offer at this time an amendment which will also insure the lives of the officers and crew against war risks. It is as easy to insure the life of a human being against war risks as it is to insure oil or wheat or cotton or mules or any other cargo. If the sailor or the officer loses his life, he leaves some one who is dependent upon him for livelihood. I know that is the case in every port I have ever been in. Why not insure his life against war risks? Why not? The average life term of a human being at every age is known. That question has been settled. It is one of the natural laws that is as easily ascertained as any other law known to science.

Mr. GALLINGER. Mr. President——

The VICE PRESIDENT. Does the Senator from Oregon yield to the Senator from New Hampshire?

Mr. LANE. In just a moment. The working value of it is well known, and by paying to the Government a reasonable amount of insurance his life can be insured. It is as important to insure his life as it is to insure the cargo. Within the last few days I have noticed reports stating that merchantmen have been sunk in the North Sea and in the Baltic Sea and the vessels lost and the lives of the crew lost because the vessels ran upon these submerged mines.

I yield to the Senator from New Hampshire.

Mr. GALLINGER. Mr. President, inasmuch as these ships will carry passengers as well as officers and crew and cargo, I was about to ask the Senator if, according to his theory, the passengers ought not likewise to be insured?

Mr. LANE. Mr. President, I would say that that would not be a bad idea, and yet they are not compelled to go. You can not land one pound of the manufactured products of New England in a foreign country, nor can any other portion of this country land one pound of its products in European markets, without having a crew to take it there and work the ship. The passenger does not have to go unless he is hunting trouble, or going on business, or for pleasure; and I should think he could go and take out his own insurance; but you are forcing these men, or, rather, their necessity of gaining their livelihood compels them, to take this war risk about which we are so anxious when it comes to protecting of merchandise and produce. Why not give the member of the crew an opportunity to insure his life for the benefit of his dependent folk? After a while, if you do not do that, and these men lose their lives, the people of this country will have to take care of the dependents who are left without support. It is a perfectly wise and humane provision. It fits well into the scheme here. It entails but little additional trouble.

I am going to ask that that amendment be adopted, and that it apply to this bill, and I see no reason why it should not be adopted. This body represents the people of this country. We are not sent here to put forth our efforts merely in behalf of the business interests of the country or to protect them against loss. It is just as much our duty to look out for the health of the people of this country and their welfare and to protect their lives. In fact, it is more so, if you really reduce it to the last analysis.

Mr. SHAFROTH. Mr. President, I should like to ask the Senator a question, and that is whether or not in the ordinary life insurance policy the risk which is assumed therein does not cover the life of a person belonging to a government that is not a belligerent in a war?

Mr. LANE. Mr. President, I will say for the Senator's information that the insurance companies immediately decline to take any chances upon a man who travels out in unknown seas where there are submerged mines lying around. They forbid him to go without a special permit, if you please. If you want to go into Alaska with a dog team to engage in mining there, unless you give notice and get their consent, you are not insured. They forbid everything that involves great risk. There are many of the ordinary vocations of life in which many men are engaged, such as working in sawmills, handling saws, where they are not accepted by insurance companies; and a man who is going out upon a mission that puts him into seas where he has to dodge submerged mines will get no insurance, except at an exorbitant rate, if at all. Here is your opportunity to do good.

Mr. SHAFROTH. I will ask the Senator if he knows whether the insurance companies are refusing to insure people who travel upon the seas as citizens of the United States? I will say to the Senator that everywhere I have gone I have inquired particularly as to whether the life insurance policy which I hold was good, and invariably I have been given the answer that it was good.

Mr. LANE. I advise the Senator from Colorado to inform the company in which he is insured that he is going to take a trip to Europe at this time and see what they will tell him.

Mr. SHAFROTH. We ought to know whether they are doing it or not, it seems to me.

Mr. WHITE. I should like to suggest, with the Senator's permission, that that applies to passengers.

Mr. LANE. Yes.

Mr. WHITE. Not to men who are engaged in the business. Your life-insurance policy will cover you if you are traveling on a railroad.

Mr. LANE. Yes.

Mr. WHITE. But they generally except railroad employees.

Mr. LANE. They do. Railroad employees are excepted. It is extrahazardous work. Now, why not adopt this amendment?

I send the amendment to the desk, and ask to have it read.

The VICE PRESIDENT. The Secretary will state the amendment.

The SECRETARY. On page 2, after line 20, it is proposed to insert:

Provided, That the said bureau shall make provision to insure against war risks the lives of all officers and members of the crew of all vessels provided for in this bill.

The VICE PRESIDENT. The question is on agreeing to the amendment.

Mr. LANE. I ask for the yeas and nays on the amendment.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. CHAMBERLAIN (when his name was called). I have a general pair with the junior Senator from Pennsylvania [Mr. OLIVER]. In his absence I withhold my vote. If at liberty to vote, I would vote "yea."

Mr. CHILTON (when his name was called). I have a general pair with the senior Senator from New Mexico [Mr. FALL]. In his absence I withhold my vote.

Mr. CULBERSON (when his name was called). I transfer my general pair with the senior Senator from Delaware [Mr. DU PONT] to the junior Senator from Arizona [Mr. SMITH] and will vote. I vote "nay."

Mr. GALLINGER (when his name was called). I have a general pair with the junior Senator from New York [Mr. O'GORMAN]. I transfer that pair to the junior Senator from Maine [Mr. BURLEIGH], who is unavoidably detained from the Chamber, and will vote. I vote "nay."

Mr. THORNTON (when Mr. O'GORMAN's name was called). I am requested to announce the necessary absence of the junior Senator from New York [Mr. O'GORMAN], and that he is paired with the senior Senator from New Hampshire [Mr. GALLINGER]. I ask that this announcement may stand for the day.

Mr. DILLINGHAM (when Mr. PAGE's name was called). I wish to announce the necessary absence from the city of my colleague [Mr. PAGE] on account of illness in his family. I will let this announcement stand for the day.

Mr. SMITH of Georgia (when his name was called). I have a general pair with the senior Senator from Massachusetts [Mr. LODGE]. Unless I can obtain a transfer, I will withhold my vote.

Mr. SMOOT (when Mr. SUTHERLAND'S name was called). I desire to announce the unavoidable absence of my colleague [Mr. SUTHERLAND]. He has a general pair with the senior Senator from Arkansas [Mr. CLARKE]. I will let this announcement stand for the day.

Mr. THOMAS (when his name was called). I have a general pair with the senior Senator from New York [Mr. ROOT]. I transfer that pair to the senior Senator from Nevada [Mr. NEWLANDS] and will vote. I vote "yea."

Mr. JONES (when Mr. TOWNSEND'S name was called). The junior Senator from Michigan [Mr. TOWNSEND] is necessarily absent. He is paired with the junior Senator frm Arkansas [Mr. ROBINSON]. I will let this announcement stand on all votes for the day.

Mr. WALSH (when his name was called). I have a general pair with the senior Senator from Rhode Island [Mr. LIPPITT]. I transfer that pair to the junior Senator from Kansas [Mr. THOMPSON] and will vote. I vote "nay."

I likewise announce that the senior Senator from Tennessee [Mr. LEA] was called from the city by reason of the serious illness of a member of his family. He is paired with the senior Senator from South Dakota [Mr. CRAWFORD].

I likewise announce that my colleague [Mr. MYERS] is absent from the Senate on official business. He is paired with the junior Senator from Connecticut [Mr. MCLEAN].

Mr. CLARK of Wyoming (when Mr. WARREN'S name was called). I desire to announce the unavoidable absence of my colleague [Mr. WARREN]. He is paired with the senior Senator from Florida [Mr. FLETCHER]. I ask that this announcement may stand for the day.

Mr. WILLIAMS (when his name was called). I transfer my pair with the senior Senator from Pennsylvania [Mr. PENROSE] to the junior Senator from South Carolina [Mr. SMITH] and will vote. I vote "nay."

The roll call was concluded.

Mr. GRONNA. I inquire whether the senior Senator from Maine [Mr. JOHNSON] has voted?

The VICE PRESIDENT. He has not.

Mr. GRONNA. I have a pair with that Senator. I transfer that pair to the junior Senator from Illinois [Mr. SHERMAN], and will vote. I vote "nay."

Mr. FLETCHER. I have a pair with the junior Senator from Wyoming [Mr. WARREN]. In his absence I withhold my vote.

Mr. GORE. I have a pair with the junior Senator from Wisconsin [Mr. STEPHENSON] and therefore withhold my vote. If at liberty to vote, I would vote "yea."

Mr. GALLINGER. I have been requested to announce the following pairs:

The junior Senator from New Mexico [Mr. CATRON] with the senior Senator from Oklahoma [Mr. OWEN].

The junior Senator from Rhode Island [Mr. COLT] with the junior Senator from Delaware [Mr. SAULSBURY].

The junior Senator from West Virginia [Mr. GOFF] with the senior Senator from South Carolina [Mr. TILLMAN].

The senior Senator from Michigan [Mr. SMITH] with the junior Senator from Missouri [Mr. REED].

Mr. KENYON. I desire to announce the necessary absence from the city of my colleague [Mr. CUMMINS], and also to announce the absence of the senior Senator from Wisconsin [Mr. LA FOLLETTE] on account of illness.

Mr. PITTMAN. I wish to announce the absence of the junior Senator from Delaware [Mr. SAULSBURY] on account of sickness, and that he is paired with the junior Senator from Rhode Island [Mr. COLT].

The result was announced—yeas 14, nays 39, as follows:

YEAS—14.

Ashurst	Jones	Norris	Vardaman
Bristow	Kenyon	Poindexter	Weeks
Hollis	Lane	Sheppard	
James	Martine, N. J.	Thomas	

NAYS—39.

Bankhead	Gallinger	Overman	Smoot
Brady	Gronna	Perkins	Sterling
Brandegee	Hitchcock	Pittman	Stone
Bryan	Hughes	Pomerene	Swanson
Burton	Kern	Ransdell	Thornton
Camden	Lee, Md.	Shafroth	Walsh
Clark, Wyo.	Lewis	Shields	West
Clarke, Ark.	McCumber	Shively	White
Culberson	Martin, Va.	Simmons	Williams
Dillingham	Nelson	Smith, Md.	

NOT VOTING—43.

Borah	Colt	Goff	Lodge
Burleigh	Crawford	Gore	McLean
Catron	Cummins	Johnson	Myers
Chamberlain	du Pont	La Follette	Newlands
Chilton	Fall	Lea, Tenn.	O'Gorman
Clapp	Fletcher	Lippitt	Oliver
Owen	Root	Smith, Mich.	Tillman
Page	Saulsbury	Smith, S. C.	Townsend
Penrose	Sherman	Stephenson	Warren
Reed	Smith, Ariz.	Sutherland	Works.
Robinson	Smith, Ga.	Thompson	

So Mr. LANE'S amendment was rejected.

Mr. MCCUMBER. Mr. President, I am not very socialistically inclined, nor do I believe in paternalism to any great extent. I intend to vote for this measure simply as an emergency measure. I had hoped that as an emergency measure it would be designed to meet the emergency, and I had hoped that Senators were not so tied to some particular proposition because it comes in that way from a committee, or in the original draft, that they would blind their eyes to all reason concerning the bill.

I want, in all good faith, to invite the attention of the Senators upon the other side to a little amendment that I am going to offer. Of course you can vote it down, if you feel that you want to vote it down, without using your judgment or reason upon it; but I want to put this proposition right up to the Senate, and that is that if Great Britain and Germany insure their cargoes against war risks at 40 per cent, and the insurance companies here will not insure for less than that, the Government is justified in giving an insurance of 35 per cent to compete with the insurance that is given by these nations that are engaged in war. I have understood that the purpose of this bill was to secure reasonable insurance and insurance that has some relation to the risk. If the risk is slight, there will, at most, be but a slight rise in the insurance.

I am going to move to strike out, in line 16, page 2, after the word "secure," all the words down to and including line 20. In other words, I move to strike out "adequate war-risk insurance on terms of substantial equality with the vessels or shippers of other countries because of the protection given such vessels or shippers by their respective Governments through war-risk insurance," and to insert in lieu thereof the words "just and fair terms of insurance against war risks," so that it will read that the Government will insure "whenever it shall appear to the Secretary that American vessels, shippers, or importers in American vessels are unable in any trade to secure just and fair terms of insurance against war risks."

The VICE PRESIDENT. The morning hour having expired, the Chair lays before the Senate the unfinished business, which will be stated.

The SECRETARY. A bill (H. R. 15657) to supplement existing laws against unlawful restraints and monopolies, and for other purposes.

Mr. CULBERSON. I ask unanimous consent that the unfinished business be temporarily laid aside.

The VICE PRESIDENT. Is there objection? The Chair hears none, and the unfinished business is temporarily laid aside.

Mr. CLARKE of Arkansas. I ask that we may proceed with the bill which has been under discussion until it is disposed of.

The VICE PRESIDENT. The Chair hears no objection.

Mr. CLARKE of Arkansas. I feel disposed to say to the Senator from North Dakota, if he will propose to amend the bill by striking out all of section 2 after the word "insurance," in line 16, that I am inclined to accept his amendment. That is substantially what I understand to be the purpose of the act anyway. I never was entirely satisfied with that cumbersome qualification, which left too much discretion to the board to determine what was meant by "substantial equality." I have no idea that the board would conclude that the same rate was in every instance substantial equality with that charged for risks on the ships of other countries. I think they would weigh out in detail the different elements of the particular risk which was to be covered by the policy written by our Government and eliminate such things as were peculiar to foreign countries and did not appear to be a risk under our situation.

Mr. MCCUMBER. I think the suggestion made by the Senator from Arkansas will meet my objections, because then it will read:

> Shippers or importers in American vessels are unable in any trade to secure adequate war-risk insurance.

Mr. CLARKE of Arkansas. I accept that amendment.

Mr. MCCUMBER. I think that adequate. They would charge only reasonable rates. I therefore consent to withdraw my other amendment, and move to amend by striking out all of section 2 after the word "insurance," in line 16.

Mr. CLARKE of Arkansas. I accept that amendment, Mr. President.

Mr. BURTON. Let me understand that. Is it proposed to strike out of section 2, after the words "adequate war-risk insurance"?

Mr. McCUMBER. Yes; in line 16, commencing with the word "on."

Mr. BURTON. I think that retains the substance of the section. I do not think the objection stated by the Senator from North Dakota lies to this bill. It is not with a view to preventing the extortion of private insurance companies that the bill is to be passed, but because private capital is inadequate to cover the field. A new and extraordinary risk is imposed upon shipping, and a couple of foreign countries are giving war-risk insurance. It is desirable to place our ships on the same basis with theirs.

Mr. CLARKE of Arkansas. I think what is left in the section will retain, in substance, what we intend to do. The word "adequate," of course, is a rather comprehensive and elastic word and we leave something to the judgment of the board in determining the risk and other conditions that should enter into the contract. I accept the amendment.

Mr. WILLIAMS. Mr. President, if that amendment is accepted this law will read "to secure adequate war-risk insurance." I submit that will cover the question of amount, but it does not cover the question of the rate. If you can get under this bill, then, as amended, an "adequate insurance," regardless of the rate which is charged for it, the provisions of the bill will have been complied with. It seems to me it ought to read "adequate war-risk insurance at reasonable and just rates."

Mr. McCUMBER. I should prefer that myself, but I was willing to trust the board to do it.

Mr. WILLIAMS. Undoubtedly the word "adequate" refers only to the amount. It does not refer to the rate at all. It does not refer to the reasonableness or justness of the rate.

Mr. CLARKE of Arkansas. I see no necessity for the adoption of the amendment suggested by the Senator from Mississippi.

Mr. WILLIAMS. I have not offered it. I merely made the suggestion.

Mr. CLARKE of Arkansas. I see no necessity for its adoption, because of the feature of that amendment already contained in the bill beginning with line 24, on page 2—

and to fix reasonable rates of premium for the insurance of American vessels, their freight and passage moneys and cargoes against war risks, which rates shall be subject to such change, to each port and for each class, as the Secretary shall find may be required by the circumstances.

That would simply be duplicating a provision already contained in the bill.

Mr. WALSH. Mr. President, I have great respect for the opinion of the chairman of the committee with reference to this act, but with such study as I have given I am not able to agree about it. The act provides, according to the amendment suggested by the Senator from North Dakota, that the bureau is to become operative only when adequate war-risk insurance can not be obtained. The word "adequate" obviously refers to the amount. Adequate insurance has no reference to the rates to be paid.

It is true, as was said by the Senator from Arkansas, that by section 3 it is directed that only reasonable rates shall be charged, but if adequate insurance can be obtained at whatever rates, however exorbitant, the bureau can never be established under the provisions of section 2.

Accordingly, Mr. President, I think to remove all possible question the amendment of the Senator from North Dakota should commence after the word "terms" and the word "reasonable" should be inserted between the words "on" and "terms," so that it will read whenever American vessels "are unable in any trade to secure adequate war-risk insurance on reasonable terms."

Mr. CLARKE of Arkansas. The amendment suggested by the Senator from Montana is exactly what I have been insisting all the time the bill means. I have no objection to accepting it, so that it will read "to secure adequate war-risk insurance on reasonable terms."

Mr. McCUMBER. That is satisfactory, and I adopt that amendment. I was going to offer one that amounts to the same thing, but it will facilitate the matter by accepting the suggestion made by the Senator from Montana.

The VICE PRESIDENT. The amendment is, on line 17, to insert before the word "terms" the word "reasonable" and to strike out the remainder of the paragraph down to and including the word "insurance" in line 20. It will be agreed to without objection.

The bill was reported to the Senate as amended, and the amendments were concurred in.

Mr. LEWIS. Mr. President, I desire, if I may have it, the attention of the Senator from Arkansas. I hope the Senator from Arkansas will accept the following amendment:

That during the pendency of this measure the officers and crews of any vessel insured within this act shall be held entitled to all pensions as now permitted to officers and crews of the Navy of the United States. The sum of the said pensions shall be the same as to officers and crew of the vessels insured herein as is prescribed for officers and men engaged in the United States Navy assuming war risks and suffering death or injury therefrom.

Mr. CLARKE of Arkansas. I can not accept such an amendment as that. It is entirely foreign to the purpose of the bill. It deals with an entirely new subject matter, and might provoke all sorts of discussion, and require the development of an administrative system to make it operative that would delay us unduly. I can not accept the amendment.

Mr. LEWIS. I desire to say that it appears to me that if the Senator could accept the amendment of the Senator from Oregon [Mr. LANE] for the personal insurance of officers and members of the crew, the guaranty of indemnity that is extended now to the officers and the crews of the vessels of our Navy should be extended here. In this way we have an inducement to the crew to take these war risks with the same feeling that they are placed on the exact level as soldiers and sailors. Such is the object of my amendment.

Mr. SMOOT. The Senator does not understand that these ships are going into war, or that they are for war purposes, or to run a blockade, or to take any risk whatever other than the mere fact that they may be seized by some belligerent power? Certainly there is no risk, as far as war is concerned, to the ships that will take out insurance under this bill.

Mr. LEWIS. I answer the Senator from Utah by saying that I provide that the pension shall only arise whenever the war risk which is insured here produces death, or disaster, or accident, or damage to the crew or officers. They would not be permitted to enjoy this pension unless they were involved in some way in some matter which was a war risk. Such is my idea.

If the chairman of the committee feels that this amendment would embarrass the object of the bill, I am loath to have it offered. If he merely bases the objection on its merits without feeling that it embarrasses the policy of the bill because being foreign to the measure, then I would like to tender the amendment. I ask the Senator from Arkansas the ground of his objection? Does he regard the subject matter as foreign to the purpose of the bill?

Mr. CLARKE of Arkansas. I do, indeed. I am sure it would necessitate considerable debate, and it might require that the provisions of the bill should be amplified in order to extend equal terms to those who assume equal risks in other departments of over-sea commerce. Then it conflicts with another purpose which is the foundation of the bill. The bill simply offers the means of obtaining insurance covering war risks where private companies will not assume it. In those cases where the private companies will assume the war risk there would then be no pension nor bounty, such as is provided for in the amendment of the Senator from Illinois, held out to the crews of those particular ships. The effects of it might be that it would embarrass the shipping business, creating discrimination between two classes of ships, those insured under the terms of the bill and those insured by private companies. It is not assumed that the Government under this provision of the bill will do all the insuring, even as against war risks.

Of course, I do not desire in the slightest degree to curtail the right of the Senator from Illinois to offer any amendment his best judgment may approve. If, however, the Senator thinks it is the right amendment to offer, and if the amendment should meet with the approval of the Senate, it is his duty, and I am sure it would be his pleasure, to submit it.

Mr. LEWIS. I realize both my privilege and right in the matter, and I acknowledge the courtesy of the Senator in so affirming it. I am, however, anxious that I shall not retard the passage or embarrass the course of the measure, and if those in charge of it think the amendment is foreign to the purpose, I will withhold it and present it at another time, should the developments make it necessary. For that reason I will not now tender the amendment, because the chairman can not accept it.

Mr. JONES. Mr. President, I recognize that the administration is peculiarly responsible for measures to meet the emergencies that confront us, and I want to do everything I can to cooperate in every way possible to help the passage of proper measures. I think it is our patriotic duty to do that, and I know that there is no partisanship in connection with this measure or those of a similar character and for such a purpose.

I want to do everything possible and proper to put the American flag on the seas and to have our ships transport our products to the markets that need them. I want to assist in every proper way to get our products to market. But, Mr. President, in doing that I think we ought not to do it at the risk of involving us in the terrific struggle that now embraces every great civilized nation on the face of the earth except ours. I approve most heartily the admonition of the President to the people of the

country to maintain an absolutely neutral attitude with reference to this struggle and those engaged in it, and I hope all of our people will heed it most strictly.

The only fear I have in reference to these measures that we are passing is that they will have a tendency to involve us in these difficulties; that they are likely to create situations which may give to some of the belligerents an excuse to embroil us in this terrific struggle, and if that should happen, of course all realize that we will have passed these measures at a terrific price.

There are interests that care but little what happens so they accomplish their purposes and enrich themselves. In time of stress patriotism becomes the cloak of spoliation. I fear the "interests," so called, are most active in taking advantage of the serious and critical situation that now confronts us and the world. These "interests" care but little what embarrassing situations may be brought about if profit accrues to them and their capital.

I hope that nothing of that kind will happen, but I simply wanted to say that I can not help but fear that these measures are likely to involve us in complications and in situations that may bring us into the struggle. I hope not. I hope this measure will not do what I fear it may do, and with this statement I shall not vote against its passage.

Mr. WILLIAMS. I should like to ask the Senator a question for information. Does the Senator think that under the supervision of the Secretary of the Treasury the Government will insure a ship carrying a cargo contraband or an absolute contraband or a cargo of conditional contraband which a belligerent has declared that it would seize?

Mr. JONES. I do not think they would do it intentionally at all.

Mr. WILLIAMS. The very insurance policy itself would provide that ships must not carry contraband; and if the ship did carry it, it would be violating the contract of insurance, and then the United States would not have to pay a cent.

Mr. JONES. I am not going into details. I know this and the Senator from Mississippi knows it that war overrides almost everything. Contracts public are not regarded. We have seen already that treaties are not regarded at all when the exigency of war requires some course contrary to them. We know very well that if there is a desire upon the part of anybody to get somebody into trouble they may easily find excuses to do it. All I am afraid of is that some situation may come up by reason of these measures that may give an excuse, however unjustifiable it may be, that may lead us into trouble.

Mr. THOMAS. I should like to inquire of the Senator whether Gen. Sherman did not say something about war?

Mr. JONES. Yes; and he expressed it as concisely as anybody could express it; but even his expression would not adequately describe the terrors, destruction, and sufferings of the titanic struggle now on, and nothing is justified that might involve us in it.

Mr. WHITE. Mr. President, this legislation, in my judgment, can be justified only on the ground of its being necessary to meet an emergency. It can not be justified, in my mind, on any other ground. It is putting the Government in private business, and putting it in business in competition with legitimate business insurance. It is, furthermore, conferring special privileges, special advantages, that ought not ordinarily to be done. It is extending special privileges directly to the few at the expense of the many. The masses are told that they will be compensated by indirect advantages; they can not stand many more such; they have already nearly been ruined by them.

As I said, however, it may be justified as a war measure, and it may be supported on that ground, and that ground only. I am afraid, however, that it will have an effect not intended, and that it will increase the price of the ships that we are buying. We are by this legislation, I am afraid, adding new value to foreign ships that our citizens may have to pay when they go to buy them. That is a matter, however, of policy that no doubt the committee has considered before it brought in the bill.

I wanted to say this much, Mr. President, before I voted on the measure.

The bill was ordered to be engrossed for a third reading and was read the third time.

The VICE PRESIDENT. The question is, Shall the bill pass? The bill is passed.

Mr. KENYON. I should like to inquire if there was a vote taken? I simply want an opportunity to vote against it; that is all.

The VICE PRESIDENT. All in favor of the passage of the bill will say "aye." [Putting the question.] Contrary, "no." The ayes have it, and the bill is passed.

PROPOSED ANTITRUST LEGISLATION.

Mr. CULBERSON. I ask that the unfinished business be laid before the Senate and proceeded with.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 15657) to supplement existing laws against unlawful restraints and monopolies, and for other purposes.

The VICE PRESIDENT. The pending question is on the amendment of the Senator from Iowa [Mr. KENYON] to the amendment of the committee. It will be stated.

The SECRETARY. On page 17, line 12, after the word "misapplies," insert the words "or intentionally or negligently permits or suffers to be misapplied."

Mr. KENYON. Mr. President, I will not discuss the amendment to the amendment, as it has been thoroughly discussed, but I ask for a yea-and-nay vote on it.

The yeas and nays were ordered.

Mr. SMOOT. I ask that the amendment to the amendment be read.

The amendment to the amendment was again read.

The VICE PRESIDENT. The Secretary will call the roll on agreeing to the amendment to the amendment.

The Secretary proceeded to call the roll.

Mr. CULBERSON (when his name was called). Again announcing my pair and its transfer, I vote "nay."

Mr. REED (when his name was called). I have a pair with the Senator from Michigan [Mr. SMITH]. In his absence I withhold my vote.

Mr. THOMAS (when his name was called). I have a general pair with the senior Senator from New York [Mr. ROOT]. In his absence I withhold my vote.

Mr. TILLMAN (when his name was called). I have a general pair with the Senator from West Virgina [Mr. GOFF]. In his absence I withhold my vote.

Mr. WALSH (when his name was called). I am paired with the Senator from Rhode Island [Mr. LIPPITT]. I will transfer that pair to the Senator from Kansas [Mr. THOMPSON] and vote. I vote "nay."

I announce likewise the necessary absence of my colleague [Mr. MYERS]. He is paired with the Senator from Connecticut [Mr. MCLEAN].

I will likewise announce that the Senator from Tennessee [Mr. LEA] is absent on account of illness. He is paired with the Senator from South Dakota [Mr. CRAWFORD].

The roll call was concluded.

Mr. GRONNA. Has the senior Senator from Maine [Mr. JOHNSON] voted?

The PRESIDING OFFICER (Mr. SWANSON in the chair). He has not.

Mr. GRONNA. I have a general pair with that Senator, which I transfer to the senior Senator from Iowa [Mr. CUMMINS]. I vote "yea."

Mr. GALLINGER. I have a general pair with the junior Senator from New York [Mr. O'GORMAN], which I transfer to the junior Senator from Maine [Mr. BURLEIGH] and vote "yea."

Mr. CHAMBERLAIN. In the absence of the junior Senator from Pennsylvania [Mr. OLIVER], with whom I am paired, I withhold my vote.

Mr. FLETCHER. I have a pair with the Senator from Wyoming [Mr. WARREN]. I transfer that pair to the Senator from New Jersey [Mr. MARTINE] and vote "nay."

Mr. THOMPSON entered the Chamber and voted "yea."

Mr. WALSH (after having voted in the negative). I transferred my pair to the Senator from Kansas [Mr. THOMPSON]. As he has entered the Chamber and voted, I withdraw my vote.

Mr. GORE. I desire to announce my pair with the junior Senator from Wisconsin [Mr. STEPHENSON]. I withhold my vote. I request that this announcement may stand for the day.

Mr. CHILTON. I wish to announce my pair with the Senator from New Mexico [Mr. FALL], who is necessarily absent. I understand that under the terms of it I have a right to vote on this question. I vote "nay."

Mr. MARTINE of New Jersey entered the Chamber and voted "yea."

Mr. FLETCHER (after having voted in the negative). The Senator from New Jersey [Mr. MARTINE] having appeared and voted, I transfer my pair to the Senator from Nevada [Mr. NEWLANDS] and let my vote stand.

Mr. KENYON. I desire to announce the absence of my colleague [Mr. CUMMINS], and that if he were present he would vote "yea." I think he is paired.

Mr. WILLIAMS. I transfer my pair with the senior Senator from Pennsylvania [Mr. PENROSE] to the junior Senator from South Carolina [Mr. SMITH] and vote "nay."

The result was announced—yeas 26, nays 26, as follows:

YEAS—26.

Borah	Gallinger	Lewis	Pomerene
Brady	Gronna	McCumber	Sheppard
Brandegee	Hollis	Martine, N. J.	Sterling
Bristow	James	Nelson	Thompson
Burton	Jones	Norris	Vardaman
Clark, Wyo.	Kenyon	Perkins	
Dillingham	Lane	Poindexter	

NAYS—26.

Bryan	Hughes	Shafroth	Thornton
Camden	Kern	Shields	Weeks
Chilton	Lee, Md.	Shively	West
Clarke, Ark.	Martin, Va.	Simmons	White
Culberson	Overman	Smith, Md.	Williams
Fletcher	Pittman	Stone	
Hitchcock	Ransdell	Swanson	

NOT VOTING—44.

Ashurst	Goff	Oliver	Smith, Mich.
Bankhead	Gore	Owen	Smith, S. C.
Burleigh	Johnson	Page	Smoot
Catron	La Follette	Penrose	Stephenson
Chamberlain	Lea, Tenn.	Reed	Sutherland
Clapp	Lippitt	Robinson	Thomas
Colt	Lodge	Root	Tillman
Crawford	McLean	Saulsbury	Townsend
Cummins	Myers	Sherman	Walsh
du Pont	Newlands	Smith, Ariz.	Warren
Fall	O'Gorman	Smith, Ga.	Works

So Mr. KENYON'S amendment to the amendment was rejected.

The PRESIDING OFFICER. The Secretary will state the next amendment.

The SECRETARY. The next amendment is that proposed by Mr. CULBERSON to the amendment of the committee, on page 17, line 14, after the word "corporation," to insert "arising or accruing from such commerce, in whole or in part."

The PRESIDING OFFICER. The question is on agreeing to the amendment to the amendment.

Mr. CHILTON. Mr. President, I do not desire to be put in the position of antagonizing an amendment offered by the chairman of the committee, but if we could have quiet in the Senate I should like to state——

The PRESIDING OFFICER. The Senate will be in order. Senators will please take their seats and cease conversation.

Mr. CHILTON. Mr. President——

Mr. WILLIAMS. Mr. President, while the Senate is in a state of hiatus, I ask unanimous consent to report favorably from the Committee to Audit and Control the Contingent Expenses of the Senate a resolution, a routine measure, and I ask unanimous consent for its present consideration.

The PRESIDING OFFICER. The Senator from Mississippi asks unanimous consent for the consideration of the resolution reported by him, which will be read.

Mr. CLARK of Wyoming. Mr. President, has the regular order of business been laid aside?

The PRESIDING OFFICER. It has not been.

Mr. WILLIAMS. The regular order has not been laid aside, but the resolution which I report is merely to pay an employee——

Mr. CLARK of Wyoming. My inquiry was as to whether the regular order of business had been laid aside?

The PRESIDING OFFICER. The Senator from Mississippi has asked unanimous consent for the consideration of a resolution.

Mr. CULBERSON. The regular order of business has not been laid aside.

Mr. WILLIAMS. I ask unanimous consent——

The PRESIDING OFFICER. Is there objection to the request of the Senator from Mississippi?

Mr. CLARK of Wyoming. I do not understand the Senator from Mississippi has asked unanimous consent that the regular order of business be laid aside.

Mr. WILLIAMS. I only ask unanimous consent for the present consideration of the resolution which I have reported.

Mr. CLARK of Wyoming. That can not be done without displacing the unfinished business.

Mr. WILLIAMS. Well, I ask unanimous consent that the regular order of business be temporarily laid aside. The matter I desire to have considered is a mere matter of routine.

Mr. CULBERSON. Is it an urgent matter?

Mr. WILLIAMS. It is an urgent matter. It provides for the payment of the messenger for the Senator from Oklahoma [Mr. GORE].

The PRESIDING OFFICER. Is there objection to the unfinished business being temporarily laid aside?

Mr. CULBERSON. I ask that the unfinished business be temporarily laid aside.

The PRESIDING OFFICER. In the absence of objection, it is so ordered.

MESSENGER TO SENATOR GORE.

Mr. WILLIAMS. I am directed by the Committee to Audit and Control the Contingent Expenses of the Senate to report back favorably Senate resolution 441, for which I ask immediate consideration.

The PRESIDING OFFICER. The resolution will be read.

The Secretary read the resolution (S. Res. 441) submitted by Mr. OVERMAN on the 17th instant, as follows:

Resolved, That Senator THOMAS P. GORE be, and he is hereby, authorized to employ a messenger at a salary of $1,200 per annum, to be paid from the contingent fund of the Senate.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the resolution was considered, by unanimous consent, and agreed to.

PROPOSED ANTITRUST LEGISLATION.

Mr. CULBERSON. I ask that the unfinished business be laid before the Senate.

The PRESIDING OFFICER. The Chair lays before the Senate the unfinished business.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 15657) to supplement existing laws against unlawful restraints and monopolies, and for other purposes.

Mr. CHILTON. Mr. President, I understand there is a feature of this bill as to which the two Senators from Missouri desire to be heard at this time, one of them because he has to be absent from the Senate, beginning probably to-morrow. So far as I am concerned, what I desire to say on the pending amendment may be said later in the day, and I am perfectly willing to yield the floor and let the Senator from Missouri take up that feature of the bill.

The PRESIDING OFFICER. To what section of the bill does the Senator from West Virginia refer?

Mr. OVERMAN. I call up my motion, made a few days ago, to reconsider the votes by which sections 2 and 4, as reported by the committee, were stricken out, for the purpose of allowing the Senator from Missouri to address himself to those sections.

Mr. CULBERSON. Mr. President, an amendment of the Senate committee, striking out sections 2 and 4, was adopted, and the Senator from North Carolina [Mr. OVERMAN] made a formal motion to reconsider that action of the Senate. He now calls up that motion to give the Senator from Missouri an opportunity to discuss the matter.

The PRESIDING OFFICER. The question is on reconsidering the action of the Senate as in Committee of the Whole in striking out sections 2 and 4 of the bill.

Mr. REED obtained the floor.

Mr. CHILTON. Will the Senator pardon me one moment?

Mr. REED. Certainly.

Mr. CHILTON. I offer an amendment to the pending section of the bill, and, in order that it may be printed in the RECORD, I send it to the Secretary's desk.

The PRESIDING OFFICER. If there is no objection, it will be so ordered.

The amendment referred to is as follows:

On page 17, section 9a, after line 21, insert the following:

"That nothing in this section shall be held to take away or impair the jurisdiction of the courts of the several States under the laws thereof; and a judgment of conviction or acquittal on the merits under the laws of any State shall be a bar to any prosecution hereunder for the same act or acts."

Mr. REED. Mr. President, I do not want to discuss this matter in the absence of the Senate.

Mr. OVERMAN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from North Carolina suggests the absence of a quorum. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Gronna	Perkins	Stone
Bankhead	Hollis	Pomerene	Swanson
Brady	Hughes	Ransdell	Thomas
Brandegee	James	Reed	Thompson
Bryan	Jones	Shafroth	Thornton
Burton	Kenyon	Sheppard	Tillman
Camden	Kern	Shields	Walsh
Chamberlain	Lane	Shively	West
Chilton	Lee, Md.	Simmons	White
Culberson	Lewis	Smith, Ga.	Williams
Dillingham	Martin, Va.	Smith, Md.	
Fletcher	Norris	Smoot	
Gore	Overman	Sterling	

Mr. SMOOT. I desire to announce the unavoidable absence of the Senator from New Hampshire [Mr. GALLINGER], who has a general pair with the junior Senator from New York [Mr. O'GORMAN].

The PRESIDING OFFICER. Forty-nine Senators have answered to the roll call. A quorum of the Senate is present. The Senator from Missouri.

Mr. REED. Mr. President, sections 2 and 4 were stricken from the Clayton bill upon the theory that the matters therein contained were covered by the trade commission bill.

Mr. President, it is very embarrassing to argue a question of this kind in the absence of the Senate. I do not expect to be able to entertain the Senate. The roll has just been called, and 49 Senators have answered to their names, but there are now by actual count in the Senate just 12 Senators. The Senators who are present are the Senator from Maryland [Mr. LEE], the Senator from Texas [Mr. CULBERSON], the Senator from Oklahoma [Mr. GORE], the Senator from North Carolina [Mr. SIMMONS], the Senator from Colorado [Mr. THOMAS], the Senator from Missouri [Mr. STONE], the Senator from North Carolina [Mr. OVERMAN], the Senator from New Mexico [Mr. FALL], the Senator from Utah [Mr. SMOOT], the Senator from Georgia [Mr. WEST], and the Senator from Connecticut [Mr. BRANDEGEE]. Since I have been speaking the Senator from Iowa [Mr. KENYON] has just entered the Chamber, as has also the Senator from California [Mr. PERKINS]. I notice there is in addition——

Mr. KENYON. I learned the Senator from Missouri was speaking, so I came in.

Mr. BRYAN. I did not know the Senator from Missouri was speaking, or I should not have been absent.

Mr. LEWIS. Mr. President, I call the attention of the Senator from Missouri to the fact that I am present and am always on his applause committee.

Mr. REED. I am not looking for applause, Mr. President; I am asking that due consideration be given this important matter. I have seen it happen time and again—and I am not complaining of the manifest indifference of Senators on my own account. This bill is not more important to me than it is to all other Members of the Senate. Time and again in the last two weeks I have heard grave matters discussed in the absence of nine-tenths of the Senate. Then, when the vote is being taken, Senators come into the Chamber and casually inquire what is going on and proceed to vote.

The PRESIDING OFFICER (Mr. WALSH in the chair). The Senator from Missouri will suspend a moment. The Chair is advised that the Senator from Missouri has, in effect, suggested the absence of a quorum. The Secretary will call the roll.

Mr. STONE. Before the roll is begun, Mr. President, I make the point of order that the roll having been called a few moments ago, disclosing the presence of a quorum, and nothing having intervened since then except debate, under the ruling of the Vice President a few days ago, and following previous rulings of other presiding officers, the point of no quorum is not in order.

The PRESIDING OFFICER. The Chair believes the point of order raised by the senior Senator from Missouri is well taken. The junior Senator from Missouri will proceed.

Mr. REED. I had not intended to suggest the absence of a quorum, nor do I propose to complain; certainly I have no personal pride in this matter; I have no personal interest in it; and I have perhaps been guilty of the same acts of dereliction which I have just referred to; but the two sections of the bill now to be considered are, in my humble judgment, of a crucial character. If the Senate will listen long enough to permit the points to be briefly argued, I shall be content.

Sections 2 and 4 were stricken out at the suggestion of the chairman of the committee. On three different occasions the proposition to strike out these sections came before the committee. I am not certain, but I think at one time the vote was in the negative, and on the other two occasions the matter was laid over. Thereafter the chairman, as I understand, canvassed the members of the committee, and, of course, acting in accordance with what he understood to be the opinion of the majority of the committee, suggested as a committee amendment that these sections be eliminated from the bill. I do not make the slightest complaint, but I state the facts, simply that the Senate may understand that the question of striking these sections out was not one which had been solemnly considered in the committee and approved by a vote of the committee.

Mr. CULBERSON. Mr. President——

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from Texas?

Mr. REED. I do; certainly.

Mr. CULBERSON. As the Senator has brought up the matter of what transpired in the committee, I remind him that one of the first things done by the committee in the committee room was to strike out sections 2 and 4 and sections 8 and 9. Afterwards that action was reconsidered and those sections were left in.

Mr. REED. That is correct; they were left in, and debated after that for, I think I may say, weeks.

Mr. CULBERSON. Subsequently the report of the committee was made on the 22d of July. After it was made the trade commission bill was passed, and then, on a poll of the committee, in consequence of the passage of the trade commission bill, sections 2 and 4 of the pending bill were recommended to be stricken out by the committee, and the Senate concurred in that recommendation.

Mr. REED. Well, Mr. President, there is not any difference between that statement and the one I am making; at least, I hope there is none, and I do not think there is.

Mr. CULBERSON. I understood the Senator to say that there had been no affirmative action by the committee itself in committee with reference to these three or four sections. On the contrary, there was. In one instance sections 2 and 4 and sections 8 and 9, as shown by the minutes of the committee, were stricken out by the committee in its committee room.

Mr. REED. Well, Mr. President, that is true; but it does not change the effect of my statement. I am only trying to have the Senate understand that the committee did not meet, discuss, and finally, after discussion, take the action. It is true that in the early days of the consideration of this bill a suggestion was made to strike out not only these two sections, but the very sections we are now discussing, namely, sections 8 and 9, and they were stricken out, but afterwards, after full debate, they were all restored.

Now, I want to be understood; I am criticizing nobody; I am complaining of nothing. I merely want it to be known by the Senate that there was a poll taken of the committee, and that that is a different thing in its effect than if the matter had been discussed in the committee and then determined by a vote.

Mr. President, the first thing I want to remark is that the trade commission bill is not yet a law. It may become a law as it passed the Senate; it may become a law in a very altered shape; it may never become a law at all. The House of Representatives sent us a trade commission bill radically different in almost every real essential from the bill passed by the Senate. The House has refused to concur in the Senate amendment, and the matter has now gone to conference. No man can tell in what shape that bill will come out of the conference, neither can he tell what its ultimate fate may be; so that, as a preliminary observation, I suggest that to have stricken out of this bill any of its fundamental propositions upon the theory that the matter was taken care of in the trade commission bill was a mistake, because the trade commission bill is not yet a law; I simply mention the point and pass on.

There is a very great difference between the enactment of a substantive law which absolutely prohibits a certain practice and investing a board with authority to pass upon that practice and to condemn it or approve it as the board may see fit.

What have we done in the trade commission bill? An examination of that measure will disclose that, so far as substantive law is concerned, we have practically done nothing. The first two sections relate to the organization of the trade commission. Section 3 relates to the power of the commission to make investigations. It prohibits nothing and it legalizes nothing. The board is, by section 3, merely given power to investigate, and if it finds that any law of the United States has been violated it is empowered to report its findings, and so forth.

Section 6 relates to the filing of annual reports. Section 7 penalizes the destruction of records. Section 8 provides for compelling the attendance of witnesses. Section 9 provides for the issuance of orders and writs against a corporation failing to obey an order of the commission. Section 10 is immaterial to the matter now under discussion.

Coming back, then, to section 5—this is the point to which I challenge the attention of every lawyer, and also every layman in the Senate. Section 5 simply provides "that unfair competition in commerce is hereby declared unlawful"; it does not, as has been so often stated, define unfair competition. It does not prohibit any act or succession of acts as unfair competition. It simply condemns unfair competition.

Mr. BORAH. Mr. President——

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from Idaho?

Mr. REED. I do.

Mr. BORAH. I sympathize somewhat with the view which the Senator has with regard to sections 2 and 4; but I want to ask this question: Suppose that sections 2 and 4 were reinserted in this bill and that the bill should then be passed, and that the trade commission bill should also become a law,

would not the Senator regard sections 2 and 4 of the pending bill somewhat in conflict with section 5 of the trade commission bill?

Mr. REED. Not at all; I think the two will run absolutely together. It will be noticed that by the trade commission bill the commission is authorized to ascertain whether any law of the United States is being violated, and to report that violation to the Attorney General, and to take certain other action. The trade commission, as I understand, could investigate any violation of the Sherman Antitrust Act and any violation of any amendment to the Sherman Antitrust Act, and, of course, any violation of the amendments we are now about to enact, for we are simply adding more substantive law.

Mr. CULBERSON. Mr. President——

Mr. REED. I yield to the Senator from Texas.

Mr. CULBERSON. I do not understand how the provision which I am about to read of section 5 of the trade-commission bill as it passed the Senate can be reconciled with the last statement of the Senator from Missouri, that the trade commission shall have the right to investigate all matters affecting the violation of the Sherman antitrust law. It says:

Whenever it shall have reason—

That is, the commission—

Whenever it shall have reason to believe that any person, partnership, or corporation is violating the provisions of this section it shall issue and serve upon the defendant a complaint stating its charges in that behalf and at the same time a notice of hearing upon a day and at a place therein fixed—

And so forth.

Mr. REED. Well, Mr. President, that is not the only provision.

Mr. BORAH. Mr President——

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from Idaho?

Mr. REED. Well, I do, but I can only answer one question at a time.

Mr. BORAH. The Senator has lost some of his ingenuity if he can only answer one question at a time.

Mr. REED. It is provided in section 3 that the commission shall have power, among others—

To investigate from time to time, and as often as the commission may deem advisable, the organization, business, financial condition, conduct, practices, and management of any corporation engaged in commerce and its relation to other corporations and to individuals, associations, and partnerships.

Now, that is pretty broad. It covers everything:

To require any corporation subject to the provisions of this act which the commission may designate to furnish to the commission from time to time information, statements—

And so forth.

Mr. BRANDEGEE. Mr. President, if the Senator will yield to me for a minute while he is looking up the matter, I will say that while I have not the bill before me I have a very distinct recollection that one of the duties of the trade commission is to investigate the alleged violation of any law regulating commerce among the States. I think that will be found in the bill.

Mr. CULBERSON. I should be glad if the Senator would point it out, for I have no recollection of its being in the bill.

Mr. BRANDEGEE. I will get a copy of the bill and see if I can find it. I certainly have that idea.

Mr. REED. Here it is. I read from paragraph (g) on page 19:

If the commission believes from its inquiries and investigations, instituted upon its own initiative or at the suggestion of the President, the Attorney General, or either House of Congress that any corporation, individual, association, or partnership has violated any law of the United States regulating commerce, it shall report its findings and the evidence in relation thereto to the Attorney General with its recommendations—

And so forth.

I also call attention to section 4, which provides:

The powers and jurisdiction herein conferred upon the commission shall extend over all trade associations, corporate combinations, and corporations as hereinbefore defined engaged in or affecting commerce, except banks and common carriers.

I think there is no doubt about the scope of the commission's activities. I pass on to state the main point I intend to discuss, because, if I am right on that point, I think the chairman of the committee and all of us will be agreed that section 4 should be restored. If it is not restored, then we will adjourn without any legislation remedying the evils at which section 4 was aimed, because, as I shall show, the matter is not covered by the trade commission bill.

As I was remarking, the trade commission finds its authority to act with reference to the practices referred to in section 4 of this bill, if it finds it anywhere, in section 5 of the trade commission bill. Section 5 simply provides "that unfair competition in commerce is hereby declared unlawful." There is no declaration that any particular practice, that any particular act, that any particular thing, is illegal. The whole matter is passed up to the board, and the board is required, after investigation, to declare what it regards as illegal. I am not going to argue the old question that I went over during the trade commission debate; I assert, however, that every man who has argued in favor of sustaining the term "unfair competition," without a single exception, bottomed his argument in favor of that clause upon the claim that the term "unfair competition" had been defined by decrees of courts, had been defined in opinions of courts, and had been defined by statutes of States, so that out of those decrees, out of those statutes, and out of those opinions, there could be found a guide to be followed by the courts, and the meaning ascertained.

It follows, if you were to go to the decisions of courts, if you are to go to the decrees of courts, if you are to go to the statutes of States for a definition of unfair competition, that if the practice you desire to condemn has been expressly upheld by the courts as legal, and if the courts have said that until the law is amended the practice must stand because it is legal, then clearly the trade commission, under the term "unfair competition," can not condemn that which the law has declared to be legal. In my opinion no man in this Chamber will have the temerity to stand upon his feet and say that the trade commission can declare to be illegal that which the Supreme Court of the United States has held is legal. No man, I think, will say that if the Supreme Court of the United States has expressly approved a practice as lawful, this commission can then declare that practice, which has been declared to be lawful, to be unfair competition, and thus overrule the Supreme Court of the United States. If the commission do any such thing as that, then we have created something which we did not intend to create.

I now yield to the Senator from Idaho.

Mr. BORAH. Mr. President, suppose the Supreme Court of the United States in their decrees should hold a certain practice to be unfair competition, because they have the right to pass upon that question, and it is naturally involved in the Sherman law. Suppose they should decree this thing as being unfair. Suppose the trade commission should hold that it was fair competition, and put their seal of approval upon it, because they have a right to say that it is fair as well as to say that it is unfair, and they must necessarily say that it is fair when they are passing upon the question or whether or not it is unfair. It is one of the things which they will determine to start with.

Mr. REED. Exactly; and then, when they went to enforce that decree and went to the Supreme Court of the United States, the Supreme Court of the United States would say, "Why, dear friends, we said it was unfair; you said that it was fair. Your decree comes to us now for us to pass upon, and we are going to follow ourselves and not you." That would inevitably follow.

I do not want to be diverted for an instant, however—even although the suggestion made by the Senator from Idaho was very pertinent—from this thought: If the Supreme Court of the United States has expressly said that a practice is legal, and that even that great court is without power to stop the practice unless legislative action shall be first taken, I want to know if there is any Senator here who will say that under the circumstances the commission, under this general power to condemn unfair competition, could condemn that very practice which the Supreme Court has said is legal? Can the commission set aside the law, and can the commission overrule the Supreme Court of the United States? Manifestly not.

Starting with that premise, let us see in just what position we are left with section 4 stricken from the bill. The Clayton bill as it came to us from the House of Representatives sought to strike directly two certain evil practices which have been most commonly employed by great combinations for the purpose of crushing their smaller rivals. One of those practices was local price cutting, a device that by the statutes of various States has been often condemned, not as unfair competition, but as unfair discrimination. The evil has been so well recognized and has been so long practiced that in some dozen States statutes of the nature defined have been passed.

The other evil, which I maintain is one of the chief weapons of monopoly to-day, may be described by illustration. A concern acquires a certain patented device. Of course, having acquired that patented device, it is entitled to a monopoly in its sale. As we have seen fit to grant that particular privilege, we can not complain, and we do not complain, if the patent is sold to one concern, and that concern has a monopoly in the manufacture and sale of the patented article. But, now, the concern enjoying the privilege of the patent is not content with the

monopoly the law has granted. Accordingly, we find that it proceeds to extend the field of its monopoly by a species of contract which requires everyone who uses the patented device also to buy all of the other machines which he may use in his business from it, so that the holder of the patent in that way not only acquires a monopoly in the trade of the patented article, but compels others to buy, and buy from it, a large number of articles not patented. By the scheme aforesaid, because it owns one important patent, it forces a great volume of trade to come to it. Thus it proceeds to employ its legal patent monopoly so as to create a monopoly or restraint of trade in articles not patented.

This scheme will at first strike us as being plainly a violation of the Sherman Antitrust Act. We are inclined to say: "This constitutes a restraint of trade, because A, being the manufacturer of the shuttle of a sewing machine and the owner of a patent upon that shuttle, is entitled only to a monopoly on the shuttle; and when he attaches as a condition of the sale or lease of the shuttle that the purchaser shall buy the entire sewing machine from him, and that he shall buy the thread that is used on the sewing machine from him, he is attempting to restrain the trade of others, and that he is, in fact, so restraining trade."

But it happens, Mr. President, that some years ago this question came before the courts. Some years ago the scheme was upheld in what is known as the Button Fastener case. Its title is "Heaton Peninsular Button Fastening Co. against Eureka Specialty Co.," decided in 1896, and reported in Seventy-seventh Federal Reporter, at page 288. The case was decided by Judges Lurton, Taft, and Hammond, sitting as a court of appeals for the sixth circuit.

The facts were that the complainant made and sold a patented machine that was designed to fasten buttons to shoes with metallic staples or fasteners. On each machine sold—and I wish Senators would notice this—there was a little label stating that the machine could be used only with fasteners obtained from the owner of the patent on the machine. The fasteners were unpatented. The defendants furnished staples to the user of the patented machine, and the plaintiff brought suit for contributory infringement of the patent.

The court held that because the little notice was attached to the patented article which was sold, the individual who sold the fastener to the man who had bought the fastening machine had violated the law. The defendant was enjoined from selling any more fasteners.

No sooner was that case decided than gentlemen engaged in restraining trade began to exploit the new discovery as a safe method by which the law in restraint of trade could be circumvented.

The case referred to was followed in Tubular Rivet & Stud Co. against O'Brien, decided in 1898, and reported in Ninety-third Federal Reporter, page 200. That was a patented riveting machine, and it was tied to unpatented rivets. That is to say, the man who bought the riveting machine was compelled to buy the unpatented rivets from the man who sold the patented machine. Thus he obtained a monopoly, or at least a partial monopoly, not only upon his machine, but was able to restrain trade in rivets.

In 1901 the case of Cortelyou against Lowe, reported in One hundred and eleventh Federal Reporter, was decided, as was also the case of Cortelyou against Carter's Ink Co., reported in One hundred and eighteenth Federal Reporter, at page 1022. The case of Brodrick Copygraph Co. against Roper, reported in One hundred and twenty-fourth Federal Reporter, at page 1019, was decided in 1903. In all of these cases the patented copying machine was tied to the unpatented accessories, such as ink, paper, and so forth.

The same point was decided afterwards in Crown Cork & Seal Co. *v.* Brooklyn Bottle Stopper Co. (172 Fed. Rep., 225). That case was decided in 1909. The patented machine in that case was designed to crimp metallic tops on bottles, whereupon the enterprising gentlemen owning or controlling that patent stipulated in all his contracts that persons who bought the machine must use the corks and crowns he furnished, although the corks and crowns were unpatented.

The case of Aeolian Co. *v.* Juelg Co. (155 Fed. Rep., 119), decided in 1907, held that by this scheme a patented pianola could be tied to the unpatented perforated rolls of music.

The question finally reached the Supreme Court of the United States, and to that case I earnestly invite the attention of the Senate. Especially do I invite the attention of the Senate to the reasoning of the court and to the express declaration of the court that this is a matter for legislative remedy. I read the first syllabus in the case of Henry *v.* A. B. Dick (224 U. S., 1):

> Complainant sold his patented machine embodying the invention claimed and described in the patent and attached to the machine a license restriction that it only be used in connection with certain unpatented articles made by the vendor of the machine; with the knowledge of such license agreement and with the expectation that it would be used in connection with the said machine defendant sold to the vendee of the machine an unpatented article of the class described in the license restriction. Held that the act of defendant constituted contributory infringement of complainant's patent.

The facts, now, in the case were these:

> This action was brought by the complainant, an Illinois corporation, for the infringement of two letters patent, owned by the complainant, covering a stencil-duplicating machine known as the rotary mimeograph. The defendants are doing business as copartners in the city of New York. The complainants sold to one Christina B. Skou, of New York, a rotary mimeograph embodying the invention described and claimed in said patent under license which was attached to said machine, as follows:
>
> "LICENSE RESTRICTION.
>
> "This machine is sold by the A. B. Dick Co. with the license restriction that it may be used only with the stencil paper, ink, and other supplies made by A. B. Dick Co., Chicago, United States of America.
>
> "The defendant, Sidney Henry, sold to Miss Skou a can of ink suitable for use upon said mimeograph with knowledge of the said license agreement and with the expectation that it would be used in connection with said mimeograph. The ink sold to Miss Skou was not covered by the claims of said patent."
>
> QUESTION CERTIFIED.
>
> Upon the facts above set forth, the question concerning which this court desires the instruction of the Supreme Court is:
>
> Did the acts of the defendants constitute contributory infringement of the complainant's patents?

One can hardly imagine a better illustration than is found in this case of the length to which these license agreements can be carried if the law remains unchanged. Here was an institution making a mimeograph machine, with which we are all reasonably familiar. It attached to the machine a notice that the owner or the user of that machine, whoever he might be, must buy his ink from the gentleman who made the machine. A stenographer using this machine, a young lady, bought a can of ink that was not made by this particular gentleman or institution, and thereupon the corporation proceeded to sue the man who sold the can of ink to the girl who used the ink on the mimeograph.

Manifestly, if that sort of a suit can be maintained, then as long as a man has an article any part of which is patented he can deprive the purchasing public of the advantages of its free use by compelling all purchasers of the patented article to obtain the goods used in connection with it from him. Thus he can destroy or greatly injure his trade rival.

Manifestly, if this is true, if this doctrine is maintained, a gentleman who makes a sewing machine upon any part of which, from the pedals to the needles, there is a patent can provide that the thread used by every woman who operates that machine must be purchased from his factory; and any factory making thread and selling it to any lady using one of these machines with knowledge that she is going to use it upon that machine can be mulcted in damages, and the gentleman who has the patent upon the needle or upon the shuttle can in this way, in whole or in part, control the trade in thread.

But just as manifestly, if this be the law, if this be the right under the law of a man holding a patent, then no trade commission can take away that legal right. Congress alone can take it away.

Now, Mr. President, what did the court say about this case, and what warning has the court given to Congress and to the country with reference to this practice? Seven justices sat in the case; Justice Harlan had just died; Justice Day was absent. Four of the justices, namely, Mr. Harlan, Mr. Lurton, Mr. McKenna, Mr. Holmes, and Mr. Van Devanter, sustained the doctrine that had previously been announced in the cases I have referred to, to wit, that a condition of that kind can be attached to any patented article. Three of the justices dissented, including Mr. Chief Justice White, the others being Justice Hughes and Justice Lamar. I desire to present to the Senate some excerpts from the opinion:

Without reading the opinion, which has been made a public document, I have this to say: The majority held that the use of the unpatented ink paper, and so forth, in conjunction with the patented mimeograph was in violation of the terms of the contract of sale and was therefore an infringement of the patent, and that the defendant who furnished the ink with knowledge of the restriction was a contributory infringer. The court in its opinion said:

> For the purpose of testing the consequence of a ruling which will support the lawfulness of a sale of a patented machine for use only in connection with supplies necessary for its operation bought from the patentee, many fanciful suggestions of conditions which might be imposed by a patentee have been pressed upon us. Thus it is said

that a patentee of a coffee pot might sell on condition that it be used only with coffee bought from him, or, if the article be a circular saw, that it might be sold on condition that it be used only in sawing logs procured from him. These and other illustrations are used to indicate that this method of marketing a patented article may be carried to such an extent as to inconvenience the public and involve innocent people in unwitting infringements. But these illustrations all fail of their purpose, because the public is always free to take or refuse the patented article on the terms imposed.

That is what the court declares to be the law. I hesitate to express my opinion of that sort of reasoning. I proceed:

If they be too onerous or not in keeping with the benefits, the patented article will not find a market. The public, by permitting the invention to go unused, loses nothing which it had before, and when the patent expires will be free to use the invention without compensation or restriction. This was pointed out in the paper-bag case, where the inventor would neither use himself nor allow others to use, and yet was held entitled to restrain infringement, because he had the exclusive right to keep all others from using during the life of the patent. This larger right embraces the lesser of permitting others to use upon such terms as the patentee chooses to prescribe. It must not be forgotten that we are dealing with a constitutional and statutory monopoly. An attack upon the rights under a patent because it secures a monopoly to make, to sell, and to use is an attack upon the whole patent system. We are not at liberty to say that the Constitution has unwisely provided for granting a monopolistic right to inventors or that Congress has unwisely failed to impose limitations upon the inventor's exclusive right of use. And if it be that the ingenuity of patentees in devising ways in which to reap the benefit of their discoveries requires to be restrained, Congress alone has the power to determine what restraints shall be imposed.

The court plainly states that it is our duty to provide a remedy.

As the law now stands it contains none, and the duty which rests upon this and upon every other court is to expound the law as it is written.

So, also, it will be the duty of the trade commission to expound the law as it is written; not to make the law. So, also, it is the duty of every executive or judicial tribunal that exists or may be created to expound the law as it is. All must act in accordance with the law as it is written; and whenever we cease to govern in this country by the law as it is written we will then cease to be a constitutional Republic. I am not saying that I accord with the reasoning of the court in reaching its conclusion upon the main point, but upon the question to which I have just referred the doctrine announced can not be questioned. I quote further:

As the law now stands it contains none, and the duty which rests upon this and upon every other court is to expound the law as it is written. Arguments based upon suggestions of public policy not recognized in the patent laws are not relevant. The field to which we are invited by such arguments is legislative, not judicial. The decisions of this court as we have construed them do not so limit the privilege of the patentee, and we could not so restrict a patent grant without overruling the long line of judicial decisions from circuit courts and circuit courts of appeal heretofore cited, thus inflicting disastrous results upon individuals who have made large investments in reliance upon them.

The conclusion we reach is that there is no difference in principle between a sale subject to specific restrictions as to the time, place, or purpose of use and restrictions requiring a use only with other things necessary to the use of the patented article purchased from the patentee. If the violation of the one kind is an infringement, the other is also.

And so the court proceeds and holds that if this evil which has now arisen, as I shall attempt to show, to monstrous proportions in this country, is not remedied by legislative act the evil will go on unchecked. There is not a monopolist in this country who does not own and control some article that is patented. Some part of his machinery, some part of his devices at least, are patented, and if this law as now declared by the Supreme Court of the United States is to remain unchanged, then the practice I have referred to will go unchecked, because, as I said before, clearly the trade commission can not declare that to be unfair trade which the Supreme Court of the United States has declared to be lawful trade because based upon a patent issued by the Government.

I am presenting these arguments to the thoughtful consideration of my fellow Senators. I am appealing to their judgment. I am trying to show them that when they refuse to reconsider the vote by which section 4 was stricken from the bill they leave the country without any remedy for these evils which have been declared lawful by the courts. The trade commission is powerless to grant relief against wrongs that have been held to have the sanction of law. Unless we change the law the evils will go unchecked.

Mr. KENYON. Mr. President——

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from Iowa?

Mr. REED. I do.

Mr. KENYON. As I understand the Senator's position, if section 4 is stricken from the bill these owners of the patent monopolies, which is a great privilege that has been granted them, can go on under the decision of the Supreme Court in the Henry case just as they did before that time and as the law is established there, namely, they can go on creating these monopolies with the help of the patent. If the section is put back into the law—as I understand it has been defeated now—we will stop that.

Mr. REED. We will stop that particular method.

Mr. KENYON. That will help some in stopping monopolies.

Mr. REED. And I think I can show before I conclude it will help very materially with reference to certain lines of industry.

Mr. KENYON. I was not here at the time but I ask the Senator what was the vote on striking out the section?

Mr. REED. It was a viva voce vote, I think.

Mr. KENYON. I am heartily in accord with the Senator's position. I think the section should go back into the bill.

Mr. REED. Turning again to the opinion in the Dick case, three of the justices dissented. Mr. Justice White wrote a dissenting opinion which, if I read it aright, is a direct challenge to Congress to remedy this evil.

Mr. THOMAS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from Colorado?

Mr. REED. I do.

Mr. THOMAS. My information some time ago was that a bill had been introduced in the House amending the patent laws of the country. Perhaps the Senator has some information as to the status of that bill, whether it was reported out from the committee or whether any active steps have been taken to perfect the legislation.

Mr. REED. I do not know the status of that bill, but I can say to the Senator from Colorado that the House did pass the Clayton bill and did put into the Clayton bill section 4, and that section 4 is aimed directly at the practice.

Mr. THOMAS. I quite agree with the Senator as to that; but I was curious to know what had become of the bill which was framed by the House Committee on Patents and introduced immediately after the decision of the Supreme Court to which the Senator has referred.

Mr. REED. I am sorry I can not answer.

Mr. GORE. I will say to the Senator that immediately following this decision of the Supreme Court the chairman of the Committee on Patents introduced a bill meeting this situation. I introduced the same bill in the Senate. The bill was reported favorably to the House in the Sixty-second Congress. It was not reported to the Senate in the Sixty-second Congress or in this Congress. I think that no action has been taken by that committee during the Sixty-third Congress upon the proposed legislation.

Mr. REED. Possibly the reason is to be found in the fact that having the trust bill before it, the House of Representatives concluded to put into the trust bill the necessary provision to arrest the evil. That provision is found in section 4, to which I shall refer in a moment. But I now desire to call attention to the reasoning and warning of Mr. Chief Justice White, in his dissenting opinion, which was concurred in by Justice Hughes and Justice Lamar:

My reluctance to dissent is overcome in this case: First, because the ruling now made has a much wider scope than the mere interest of the parties to this record, since, in my opinion, the effect of that ruling is to destroy, in a very large measure, the judicial authority of the States by unwarrantedly extending the Federal judicial power. Second, because the result just stated, by the inevitable development of the principle announced, may not be confined to sporadic or isolated cases, but will be as broad as society itself, affecting a multitude of people and capable of operation upon every conceivable subject of human contract, interest, or activity, however intensely local and exclusively within State authority they otherwise might be.

Mr. President, I repeat, it is rather discouraging to argue questions of this kind with five Senators upon the other side of the Chamber and not many more on this.

Mr. KENYON. Mr. President, I think that is true, and it should not apply to an argument of this character. I would be glad to make the point of no quorum if the Senator does not object. This is one of the most important matters in the bill, and I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. White in the chair.) The absence of a quorum is suggested by the Senator from Iowa. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	James	Myers	Stone
Borah	Jones	Norris	Thomas
Brady	Kenyon	Overman	Thompson
Bryan	Kern	Owen	Thornton
Chamberlain	Lane	Perkins	Tillman
Chilton	Lee, Md.	Poindexter	Vardaman
Clark, Wyo.	Lewis	Pomerene	Walsh
Culberson	McCumber	Reed	West
Fall	Martin, Va.	Shields	White
Gronna	Martine, N. J.	Smoot	Williams

The PRESIDING OFFICER. Forty Senators have answered to the roll call. There is not a quorum present. The Secretary will call the roll of absentees.

The Secretary called the names of absent Senators, and Mr. CAMDEN, Mr. GORE, Mr. SHAFROTH, and Mr. SHEPPARD answered to their names when called.

Mr. PITTMAN, Mr. RANSDELL, Mr. HOLLIS, Mr. SIMMONS, Mr. SHIVELY, and Mr. NELSON entered the Chamber and answered to their names.

The PRESIDING OFFICER. Fifty Senators having responded to their names. There is a quorum present. The Senator from Missouri has the floor.

Mr. REED. Mr. President, for the benefit of the three or four Senators who have remained in the Chamber since the roll was called and who were not here before the call, I will say that the point I am discussing is that the Supreme Court of the United States having held that what is known as a tying contract is valid, Congress must prohibit such contracts before the courts can declare them invalid. I am further arguing that when we struck out section 4 of this bill we struck out the only remedy provided, because the trade commission, under the general authority conferred upon them to declare what is unfair competition, certainly can not declare that to be unfair competition which the Supreme Court of the United States has expressly declared to be legal. Therefore, if we strike out section 4, we leave no remedy for the abuse now commonly practiced by manufacturing institutions of attaching to some one of their devices a notice or attaching to their contract of sale a provision that every person owning that machine must buy his supplies from the factory, making the machine. I was engaged when the roll was called in reading from the dissenting opinion of Mr. Justice White, and I will take time to read one paragraph again. He states as one of the reasons for willingly dissenting:

> Second, because the result just stated, by the inevitable development of the principle announced—

That is, the principle that you can tie to a patented article a compulsion to purchase exclusively certain other articles from the man who sold the patented device—

> may not be confined to sporadic or isolated cases, but will be as broad as society itself, affecting a multitude of people and capable of operation upon every conceivable subject of human contract, interest, or activity, however intensely local and exclusively within State authority they otherwise might be. Third, because the gravity of the consequences which would ordinarily arise from such a result is greatly aggravated by the ruling now made, since that ruling not only vastly extends the Federal judicial power, as above stated, but as to all the innumerable subjects to which the ruling may be made to apply, makes it the duty of the courts of the United States to test the rights and obligations of the parties, not by the general law of the land, in accord with the conformity act, but by the provisions of the patent law, even although the subjects considered may not be within the embrace of that law, thus disregarding the State law, overthrowing, it may be, a settled public policy of the State, and injuriously affecting a multitude of persons. Lastly, I am led to express the reasons which constrain me to dissent, because of the hope that if my forebodings as to the evil consequences to result from the application of the construction now given to the patent statute be well founded, the statement of my reasons may serve a twofold purpose: First, to suggest that the application in future cases of the construction now given be confined within the narrowest limits, and, second, to serve to make it clear that if evils arise their continuance will not be caused by the interpretation now given to the statute, but will result from the inaction of the legislative department in failing to amend the statute so as to avoid such evils.

There is a remarkable challenge by the Chief Justice of the Supreme Court of the United States. It is couched, as all his utterances are couched, in the most polite language, but it is as direct as though he had said to Congress: "This evil exists; you alone can remedy it. If it is not remedied, the fault and the responsibility are yours."

Even the majority of the court went almost to the same extent in challenging Congress to do its duty. I read:

> And if it be that the ingenuity of patentees in devising ways in which to reap the benefit of their discoveries requires to be restrained, Congress alone has the power to determine what restraints shall be imposed. As the law now stands it contains none, and the duty which rests upon this and upon every other court is to expound the law as it is written. Arguments based upon suggestions of public policy not recognized in the patent laws are not relevant. The field to which we are invited by such arguments is legislative, not judicial.

And so forth.

I refer again to the dissenting opinion of Mr. Justice White, concurred in by Justice Hughes and Justice Lamar, and I solemnly call your attention at this hour, when we are pretending to strengthen the Sherman Antitrust Act, to this language:

> I do not think it necessary to stop to point out the innumerable subjects which will be susceptible of being removed from the operation of State judicial power and the fundamental and radical character of the change which must come as a result of the principle decided. But, nevertheless, let me given a few illustrations:
>
> Take a patentee selling a patented engine. He will now have the right by contract to bring under the patent laws all contracts for coal or electrical energy used to afford power to work the machine or even the lubricants employed in its operation. Take a patented carpenter's plane. The power now exists in the patentee by contract to validly confine a carpenter purchasing one of the planes to the use of lumber sawed from trees grown on the land of a particular person or sawed by a particular mill.

If I were to use that language, it would be challenged as extravagant; but it is here employed by this great judge, who has never been known as a special enemy of monopoly, never charged with being an extremist or a crank along those lines, or, indeed, any other lines. It was written after he had heard the arguments of counsel, had examined the decisions of the courts, and after he with his great intellect had surveyed the field as it was left by this decision. Under such circumstances he solemnly adjures us to take action, and just as solemnly points out the evils which lie before us.

I continue to read:

> Take a patented cooking utensil. The power is now recognized in the patentee to bind by contract one who buys the utensil to use in connection with it no other food supply but that sold or made by the patentee. Take the invention of a patented window frame. It is now the law that the seller of the frame may stipulate that no other material shall be used in a house in which the window frames are placed except such as may be bought from the patentee and seller of the frame. Take an illustration which goes home to everyone—a patented sewing machine.
>
> It is now established that by putting on the machine, in addition to the notice of patent required by law, a notice called a license restriction, the right is acquired, as against the whole world, to control the purchase by users of the machine of thread, needles, and oil lubricants or other materials convenient or necessary for operation of the machine. The illustrations might be multiplied indefinitely.

I have the temerity at this point to inject one illustration. Take the so-called Steel Trust, and let it acquire, as it has acquired, a patented process for making some particular kind of steel. If Mr. Chief Justice White is right, the Steel Trust can stipulate with every man who buys that steel thus patented that he shall buy every other beam and girder going into a bridge or a building or a battleship he is building from the Steel Trust. Give it one upon some variety of steel necessary to be employed, and through the possession of that one patent it can compel every man who has to use some of that patented steel to buy his entire supply from it. It can thus vastly enlarge under the cloak of its patent its monopoly, and there is no power to stop it, for it acts in accordance with the law.

There is no power to stop it, I said. There is a power; it rests here in Congress, and the necessary amendment to the law is graven in section 4, which we have stricken out and which I fear, from the degree of interest being manifested, is likely to stay out, will stay out. I say, if it does stay out and nothing is put in its place, when this Congress adjourns we will hear the mocking laughter of every trust magnate in the United States. One and all they will agree that they have at last hit upon a plan to defeat the purposes of the antitrust laws of the country.

Mr. KENYON. Mr. President——

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from Iowa?

Mr. REED. I do.

Mr. KENYON. I was absent from the city at the time this section was stricken from the bill, and I should like to ask the Senator if there was any discussion of this section and if so what were the reasons for striking out a section of this kind when we were trying to strengthen the antitrust act?

Mr. REED. Mr. President, I was absent from the Senate for something like an hour, having been called to one of the departments on some business. I had no thought that these sections would be stricken out, and it was done in my absence. What I know I know only by hearsay, but my information is that there was no discussion and no record vote.

Mr. KENYON. I think the Senator is entirely mistaken about one thing, and that is that there is no interest in this matter. I think there is a great deal of interest in it, and a strong desire to place this section back in this bill. The Senator has referred to the Steel Trust; he is familiar, I doubt not, with the United Shoe Machinery Co.

Mr. REED. I am going to discuss that.

Mr. KENYON. Then, I will not say anything about it, but that great monopoly has been built up by pursuing the course referred to by the Senator.

Mr. CULBERSON. Mr. President——

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from Texas?

Mr. REED. I do.

Mr. CULBERSON. In reply to the Senator from Iowa and also to the suggestion of the Senator from Missouri, I think I ought to say that these two sections were reached in their regular order when the bill was being read for the consideration of committee amendments, and they were stricken out on my motion, representing the committee, upon the broad ground, which the RECORD shows, that the Senate having passed a bill creating a trade commission which it was supposed would regulate un-

fair competition, jurisdiction should be given that commission over the subjects contained in sections 2 and 4, as well as others.

The Senator from Missouri happened to be absent, it is true; but there was nothing like snap judgment taken. As I have said, the sections were reached in their regular order, as the CONGRESSIONAL RECORD will show, and the amendments were presented and adopted practically by unanimous vote of the Senate at the time, although there was only a viva voce vote.

Mr. KENYON. I should like to ask the Senator if there was discussion or debate on the sections.

Mr. CULBERSON. None whatever. The record shows the satement I then made, however, which was to the same effect as the statement I made just a moment ago.

Mr. WALSH. Mr. President——

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from Montana?

Mr. REED. I do.

Mr. WALSH. I should like to say a word at this stage of the discussion. The facts about the matter are as recited here by the Senator from Texas. The interrogation of the Senator from Iowa, however, would seem to suggest that there is something obscure about it and that it is difficult to understand how anyone could take the view that this provision ought to go ought in view of the argument now made by the Senator from Missouri and other considerations. Of course that would imply that the matter did not receive very serious consideration at the hands of the Judiciary Committee, and the Senator from Missouri now indicates that he is utterly unable, as I understand him, to suggest what considerations might possibly be advanced in support of the action taken.

Mr. REED. Oh, no; I did not say that.

Mr. WALSH. Now, the truth of the matter is that the matter was canvassed at very considerable length in the committee, but unfortunately the feature to which the Senator from Missouri now chiefly addresses his remarks—the Typewriter case—was not at all discussed or mentioned. The importance of that case was not especially considered. On the other hand, the significance of the shoe manufacturers' case was very carefully considered, and the Senator from Missouri, when he reaches that, will point out to you, I have no doubt in the world, the very essential difference between the two cases.

It was intended in a general way that the wrongs and the evils arising out of the shoe machinery case should be dealt with by the trade commission. The Senator has now pointed out that some of the troubles arising out of the conditions referred to in the Typewriter case can not possibly be met in that way, and that may call for consideration. Let me say, however, in this connection, that its retention was urged, and it will be borne in mind that the committee reported it to this body, signifying that they were in harmony with the spirit of the provision, but felt when it came before this body that the whole matter could be completely dealt with by the trade commission.

But, Mr. President, it was urged with great force before the committee that the provision as it stands in the bill will possibly contribute to the establishment of monopoly as well as to the destruction of monopoly. The Senator has, in his usual forceful way, set out how frequently it is resorted to by those who desire to build up monopoly; but, on the other hand, we were told—and there is much force in the suggestion which I submit to the consideration of the Senator from Iowa and the Senator from Missouri—that oftentimes a little struggling institution, competing in a feeble way against the great big monopolizing institution, will find itself utterly unable to meet that competition unless it can make a contract with some man to handle its line of goods and to handle no other line of goods. For instance, here is a man who has invented a harvesting machine, which he believes is superior to anything that is on the market.

He is struggling against the Harvester Trust. He gets Jones to handle his machine. Jones says. "Yes; I am handling the Osborne and I am handling the Plano and I am handling the Deering for the Harvester Trust, and I will be very glad to handle yours also." A man comes in to buy a harvester machine of him, and, of course, he wants the old standard line. He says, "I want a Deering," or "I want a Plano." The dealer says: "I have a new machine here that I think is a very excellent machine." "Oh, no; I don't want to look at that at all." He wants the other machine. It is just the same to the dealer. He makes as much money on one as he does on the other. If, however, the weak man can make a contract with a dealer to handle his machine, and no other, the dealer will labor as hard as he possibly can to catch the customer and get him to take that machine. So, Mr. President, this is not a one-sided proposition at all; neither was it passed upon by the Judiciary Committee without consideration.

Mr. REED. Mr. President, I am utterly at a loss to know what I have said that could in the slightest degree ruffle the sensibilities of any man. I have not charged the Judiciary Committee, of which I am a Member, with bad faith. I have not charged any member of it with bad faith. I entertain for every member of the Judiciary Committee the profoundest respect and for the chairman of the committee and for my friend the Senator from Montana [Mr. WALSH], who has just spoken, an affection. I know, speaking with reference to the two gentlemen I have just named, that there can not be found in the United States two men more earnestly desirous of relieving the public from every exaction of monopoly and of wiping out all restraint of trade. What I said was that I was absent from the Senate temporarily, and therefore could not answer the interrogatory of the Senator from Iowa, except by hearsay.

I did not claim that there was any irregularity in bringing up these matters. I was simply giving the information as best I could in answer to the interrogatory. There was no irregularity. More than that, there is no doubt in my mind but that those members of the committee who on the poll were willing to strike out section 4 did so in the best of faith, believing that the subject matter could be controlled by the trade commission. The purpose I have this afternoon is to demonstrate that that reason, which affected their judgment and caused their action, is erroneous because of the decision of the Supreme Court. So I am addressing myself to them as much as to others. The remark which seems to have stirred the Senate was the one in which, in substance, I said that the responsibility is now upon us to act, and if we do not act that the proprietor of every trust in the country will break into ironical laughter when Congress adjourns. That is a bit of imagination, but I will trust my imagination to be reasonably accurate this time.

Now, another observation——

Mr. CULBERSON. Mr. President, before the Senator passes to another subject I should like to address a general question to him.

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from Texas?

Mr. REED. I do.

Mr. CULBERSON. The Supreme Court in the Dick case, from which the Senator has been reading, held in effect that so far as the contract which was under consideration was concerned the patent law of the United States was superior to the Sherman antitrust law. What I want to know from the Senator is whether it would not be more appropriate, and, in fact, absolutely necessary, in view of that decision, to amend the patent law rather than to cover the question by a supplement to the Sherman antitrust law?

Mr. REED. No, Mr. President; I can not agree with the Senator in regard to that. It is, of course, true, and no one will dispute it, that in the enactment of this antitrust bill we can by substantive provisions change any other law of the United States with reference to any subject. We do here, in section 4, expressly limit the patent law, because we insert the language—and it was put in in our committee at the time we intended to report this section favorably—"whether patented or unpatented," so that with that phrase here we at once cut off at the roots any claim based upon the patent laws.

Mr. CULBERSON. Mr. President——

The PRESIDING OFFICER. Does the Senator from Missouri further yield to the Senator from Texas?

Mr. REED. I do.

Mr. CULBERSON. In that connection, I will ask the Senator if he thinks we can pass a law now which will limit the rights of patentees of patents already in existence, and before their expiration?

Mr. REED. I have not the slightest doubt but that the Congress of the United States can pass a law at this time providing that no man who has a patent shall attach to the sale of the patented article any condition whatsoever. I have no doubt on earth but that Congress can to-day repeal every patent law there is upon the books and end every patent at this moment; but I do not need to cross that bridge or take that position, and I have made that statement without examining the patent laws. Beyond all question, however, the right to make tying contracts is not embraced in a patent in such manner as to place it beyond the power of Congress. Congress did not give to these patentees the right to make certain kinds of contracts. It gave them a monopoly upon the use of their tool or instrument; but, as is suggested by the Chief Justice, and also by the entire court, Congress can remedy this evil by a statute, and section 4 does so remedy it.

I have been led far afield, however, from the decision I was reading.

Mr. LEWIS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from Illinois?

Mr. REED. I do.

Mr. LEWIS. I take the liberty of refreshing the minds of the able Senator from Texas, the chairman of the committee, and the able Senator from Missouri, who is making a very full presentation of his ideas, by recalling to the recollection of each, if I am not in error, the fact that the Supreme Court of the United States, touching George W. Westinghouse, in the matter of a patent, held, if I remember the words, that a patent was not a contract whereof it might be said that it was either impaired or violated, but it was a privilege granted by the Government, subject at all times to be treated by that Government in the way of curtailing or enlarging whenever the necessities of the public or its advantages or its welfare called for it.

Mr. CULBERSON. I was merely inquiring of the Senator from Missouri what his opinion was with reference to the matter.

Mr. REED. I take it the Senator's remark just now evidently implies that he did not doubt the law, but he wanted to know what I thought about it.

Mr. CULBERSON. Oh, no. I have not given the subject full consideration myself, and I desired the opinion of the Senator from Missouri to help me reach a conclusion.

Mr. REED. I was going to say, if the Senator will pardon me, that for the moment he reminded me of the case of the gentleman who asked a young lady, as he fondly held her hand, if she would marry him. She responded, with considerable asperity, "No; I would not even think of marrying a man like you." He replied: "Well, don't get mad about it; I don't want to marry you. I only asked for information." [Laughter.]

Mr. LEWIS. Mr. President, I merely wanted myself to give both distinguished Senators a suggestion as to where I thought they might find that the views of each had been sustained, and not to include myself in the argument.

Mr. REED. I thank the Senator; and my own view was and is just as the Senator from Illinois has stated his investigation leads him to conclude. I am not a patent lawyer myself. I do not mean to say the Senator is, either. I know he is a very great lawyer.

Mr. LEWIS. I may say that if there is any one thing that is patent about me it is that I am not a patent lawyer. [Laughter.]

Mr. REED. Now, coming back to this decision—I still want to take a little time to present it—Chief Justice White continues:

> The illustrations might be multiplied indefinitely. That they are not imaginary is now a matter of common knowledge, for, as the result of a case decided some years ago by one of the circuit courts of appeal, which has been followed by cases in other circuit courts of appeal, to which reference will hereafter be made, what prior to the first of those decisions on a sale of a patented article was designated a condition of sale, governed by the general principles of law, has come in practice to be denominated a license restriction, thus, by the change of form, under the doctrine announced in the cases referred to, bringing the matters covered by the restriction within the exclusive sway of the patent law.
>
> As the transformation has come about in practice since the decisions in question, the conclusion is that it is attributable as an effect caused by the doctrine of those cases. And, as I have previously stated, it is a matter of common knowledge that the change has been frequently resorted to for the purpose of bringing numerous articles of common use within the monopoly of a patent when otherwise they would not have been embraced therein, thereby tending to subject the whole of society to a widespread and irksome monopolistic control.

I will ask the page to shut the door back of me, for I want the 12 Senators who are here not to be disturbed in their ruminations. I might just as well say, Mr. President, that the Senate of the United States is going to hear this argument, either in extenso or in brief, before it votes on this question. The Members of the Senate are going to vote with their eyes open. The roll is going to be called if I can get enough Members to second the call. Then I shall be content, and not until then.

Mr. SMOOT. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	James	Norris	Swanson
Bankhead	Jones	Overman	Thomas
Bryan	Kenyon	Perkins	Thompson
Burton	Kern	Pomerene	Thornton
Camden	Lane	Ransdell	Vardaman
Chamberlain	Lee, Md.	Reed	Walsh
Clark, Wyo.	Lewis	Shafroth	West
Culberson	McCumber	Sheppard	White
Dillingham	Martin, Va.	Shields	
Gore	Myers	Shively	
Hollis	Nelson	Smoot	

The PRESIDING OFFICER. Forty-one Senators have answered to the roll call. There is not a quorum present. The Secretary will call the names of absent Senators.

The Secretary called the names of absent Senators and Mr. CHILTON, Mr. OWEN, Mr. SMITH of Georgia, and Mr. TILLMAN answered to their names when called.

Mr. PITTMAN entered the Chamber and answered to his name.

The PRESIDING OFFICER. Forty-six Senators have answered to their names. There is not a quorum present.

Mr. KERN. I move that the Sergeant at Arms be directed to request the attendance of absent Senators.

The PRESIDING OFFICER. The Chair will state to the Senator that there is an existing order to that effect. The Sergeant at Arms is instructed to request the attendance of absent Senators under the existing order.

Mr. STONE, Mr. SIMMONS, and Mr. MARTINE of New Jersey entered the Chamber and answered to their names.

The PRESIDING OFFICER. Forty-nine Senators have answered to their names. A quorum is present. The Senator from Missouri will proceed.

Mr. REED. Mr. President, I continue reading from this opinion for a moment and then I shall be through with that branch of my remarks. I am reading at length from the opinion because anything said by the Chief Justice of the Supreme Court of the United States ought to challenge the thought of this body. Chief Justice White continued:

> What could more cogently serve to point to the reality and conclusiveness of these suggestions than do the facts of this case? It is admitted that the use of the ink to work the patented machine was not embraced in the patent, and yet it is now held that by contract the use of materials not acquired from a designated source has become an infringement of the patent, and exactly the same law is applied as though the patent in express terms covered the use of ink and other operative materials. It is not, as I understand it, denied; and if it were, in the face of the decision in the Miles Medical Co. case, supra, in reason it can not be denied that the particular contract which operates this result if tested by the general law would be void as against public policy. The contract, therefore, can only be maintained upon the assumption that the patent law and the issue of a patent is the generating source of an authority to contract to procure rights under the patent law not otherwise within that law, and which could not be enjoyed under the general law of the land.

Mr. President, that brings us to this: The Government of the United States may pass all the laws it desires to pass, all that can be conceived of by the ingenuity and patriotism of Congress, prohibiting monopolies, prohibiting restraint of trade, the several States of the Union may pass laws of similar kind and character, and yet if a man secures a patent he may cloak himself under the patent law, proceed to create a restraint of trade for his benefit upon subjects which are not at all included within the terms of his patent.

It follows that unless we strike down this evil by a substantive law limiting the operation of the patent laws it will be but a short time until this scheme, this legal legerdemain, will have proceeded to such a point that every kind of restraint of trade will be protected by a clause tying the article of trade in which it is desired to restrain to some patented article.

The evil, therefore, is one which ought to immediately demand the most serious thought of Congress. That it is a real and existing evil is shown by the fact that probably more cases have been brought by monopolists owning patents to prohibit those who have purchased or leased the patented device from buying in the open market, and probably more causes have been successfully maintained than have been brought and successfully maintained by the Government of the United States under the Sherman Act for the purpose of protecting the people of the country from monopoly.

We are now engaged in an attempt to strengthen the Sherman Act, to make that act more effective, to make it reach to practices which have hitherto not been thought to be covered by it. Weeks and months of the time of Congress has been devoted to that task. And yet, with the words of the Supreme Court ringing in our ears, with its express challenge of our attention, we proceed to allow this new scheme, concocted by monopolists for the purpose of defeating the antitrust acts, to go on and prosper and spread itself as a green bay tree. If Congress does that, it will, in my judgment, make a most serious mistake.

Mr. President, at this point I want to call the attention of the friends of the trade commission bill—and we are all friends of the trade commission bill, differing only in this, that some of us desiring a trade commission believed that the language of the act ought to be specifically framed, whereas others believed a general statement was sufficient. But addressing myself to the friends of the trade commission bill, to those who believe in its potentiality, I again ask them if there is one single man among them all who will claim under the general clause authorizing the prohibition of unfair trade practices that a right reserved under a statute of the United States can be stricken down by the trade commission or the opinion of the Supreme Court of the United States that a certain practice is legal can be annulled.

But I challenge their thought to another phase of the subject. It is this: The rights reserved in the Clayton bill to an injured party are radically different from the rights reserved in the trade-commission bill to an injured party. Under the trade-commission bill an injured party has but one method of procedure. He can file a complaint with the commission. It is not even provided that he can be there represented by counsel. The commission, proceeding upon the complaint, will make such investigation as to it seems fit and proper, and having made its investigation, will thereupon write its judgment. And then what happens? If the judgment is not obeyed, the trade commission goes into a Federal court and brings a suit to enforce its decree. That suit will be brought in some of the inferior Federal courts, and thereupon an appeal, of course, will lie to the Supreme Court of the United States.

Until the case has gone to the court no judgment of the commission, no injunction of the commission, is effective. If at the end of all the litigation the judgment of the commission be affirmed, there is not a single penalty attached for dereliction of duty or for having failed to obey the mandate of the commission in the first instance.

Now, what does that naturally mean? It presents itself to me in two views: First, the attitude of the injured party or the complaining party and the hardship he is placed under; second, the certainty that the wrongdoer, being subject to no penalty, will litigate to the end of the chapter.

Speaking of the first of these observations, no man can be heard save before the commission alone. He can not go into the courts of his vicinage. The man from Montana or the man from Arizona who feels himself injured and desires to be heard under the trade commission act must come to Washington or send his complaint here; and, if he personally looks after it, he must make the long trip across this country to appear before this single tribunal and pray for his remedy and present his evidence, if, indeed, he is permitted to present it, either in person or through an attorney, for the commission might take its own course and proceed in its own way. I assume, however, that it will be a commission of fair men and that it will permit an injured party to appear, but he must undergo the hardship of the trip and the delay which will inevitably ensue.

Speaking of it from the other side, and with reference now to the wrongdoer, the wrongdoer will of course be willing to test the law out until the last word has been said by the Supreme Court of the United States; and why should he not? There is no penalty for failing to obey the mandate in the first instance; there is no penalty for the original wrongful act. The Sherman law fixes penalties; it subjects the offender to the pains and penalties of imprisonment and fine, but the trade commission law places no such burden upon the offending party.

Therefore, when you strike section 4 from this bill and relegate this question to the trade commission you wipe out every penalty and every punishment save and except that at the end of the long story of litigation an injunction may finally be issued. Do you think you will arrest the efforts of those gentlemen who are making their thousands and hundreds of thousands and millions of dollars by these artful schemes? Do you think you will stop them until they have gone to the end of the road, until four or five or six or seven years after the proceedings are instituted the Supreme Court shall have written its decision?

During all those years they will continue their practices. Why should they not? Each day they so continue they put money in their purses; each day they fatten their bank account; and at the end the worst that can happen is that they shall be compelled to stop and pay the costs of an appeal to the court.

That sort of remedy may be justified in the realm of uncertainty and vagueness which it is claimed this board will be able to enter, and to which it is claimed the advice of the board may be essential, but certainly such a tender philosophy ought not to be indulged for the benefit of those who, having acquired a patent, proceed under that patent to build up a monopoly in defiance of the spirit of the Sherman law and in defiance of the laws of all of the States of this Union in which its operations may be carried on.

Therefore, and for this consideration, as well as for the one I first advanced, namely, that it having been decided that these practices are legal under the patent laws, they can not be declared illegal by any court or by any tribunal until Congress shall act—for both of these reasons I say that section 4 should be restored, and should be restored in that vigorous and splendid shape in which it came to us from the House of Representatives, where a violation is punished by fine and imprisonment. What, sir, has come of the slogan of our campaign? Where are now those oracles of the platform who told us that the Democratic Party intended to fill the jails and penitentiaries of this country with those who create monopolies? Are you to turn these great conspirators over to the tender mercies of a trade commission, without authority to enforce its decrees, or are you, as to the greater evils, the more vicious wrongs, the plainer violations of the principles of law, to hold them to a responsibility in courts of justice sitting within the States of the injured parties? Restore section 4, and you can invoke the power of the court in your own judicial district and obtain relief that is reasonably swift and is certain in its results.

Mr. President, at this point I desire to read two telegrams. One was handed to me by the Senator from Ohio [Mr. POMERENE] and is as follows:

PORTSMOUTH, OHIO, *August 20, 1914.*

Hon. ATLEE POMERENE,
Highlands Apartments, Washington, D. C.:

We are advised that the Senate's action striking out section 4 of the Clayton bill will materially affect the shoe industry in case the bill is passed. We have previously registered our opposition to the Clayton bill, that if the business interests of the country are to be burdened by the regularity provision of this bill, we believe section 4 should be restored.

THE EMPLOYERS' ASSOCIATION,
THE SELBY SHOE CO.,
IRVING DREW CO.,
EXCELSIOR SHOE CO.

I read a telegram addressed to myself from shoe manufacturers of St. Louis, Mo., as follows:

ST. LOUIS, MO., *August 20, 1914.*

Hon. JAMES B. REED,
Washington, D. C.:

We manufacture and sell shoes amounting to approximately $28,000,000 annually, but the Shoe Machinery Trust, controlling about 98 per cent of the essential machines, prevent competition in machinery by the most monopolistic control over every manufacturer of machine-made shoes. Section 4 of Clayton bill offers some relief. We earnestly urge restoration of section 4, thus enabling us to protect ourselves in court and gain commercial freedom. The present high toll demanded and collected by Machinery Trust is taken from consumers' pockets, for it must be figured on every pair of shoes. We want your help, and ask for positive legislation at this time.

INTERNATIONAL SHOE CO.

Mr. President, that brings me to the consideration of that particular phase of the question which may be referred to as the Shoe Machinery Trust. When the decision in the Dick case was decided the Government had pending, and still has pending, the case of the United States against the United Shoe Machinery Co. of New Jersey and other defendants. The Government is strenuously trying to distinguish this case from the one to which I have just referred; but it is my opinion that the effort at distinguishing is a very difficult undertaking; and, without venturing an opinion as to what the courts may decide, it seems to me that the situation is so very doubtful that we ought at this time to remove that doubt, not only with reference to the class of cases to which I just referred, but to the Shoe Machinery case as well.

The Shoe Machinery Trust is probably one of the most exasperating illustrations of how these legal devices can be employed. Some years ago there were four or five concerns engaged in making shoe machinery. Some of them made one or more machines that performed certain functions in the manufacture of shoes; other concerns made machines that performed different functions. No one concern had a complete set of shoe machinery, as I understand. The point, however, is not very material at this moment. Thereupon, in much the same way that other trusts and combinations are formed, the United Shoe Machinery Co. was organized by combining all of the various companies to which I have referred. The United Shoe Machinery Co. has a capital stock of $25,000,000, of which two years or more ago there was some $20,850,000 issued.

In addition to that, a holding company known as the United Shoe Machinery Corporation was organized in 1905, with an authorized capital of $50,000,000, of which there has been issued $38,000,000. This combination thus brought within one control a complete set of the essential machines used in manufacturing the lower parts of the shoe; that is, all of the shoe except the uppers. Many of these machines are patented. I suppose it is a safe statement to make that some part of every one of these machines is patented, and under the doctrine of the decision that I have read you can tie an entire factory onto one patented handle or crank.

This concern, according to Poor's Manual of 1913, stood as follows:

The United Shoe Machinery Corporation, incorporated May 2, 1905, in New Jersey, to purchase all outstanding shares of the United Shoe Machinery Co. The corporation has now acquired practically all of the stock of the latter. For terms of exchange of stock, see Manual of Industrials for 1911, page 1376. The United Shoe Machinery Co. manufactures, sells, and leases shoe machinery, owning and controlling patents and inventions covering numerous types (over 300 kinds) of shoemaking machinery. In return for royalties and rentals

received the company assumes the whole cost of invention, experimental work, development, manufacture, and depreciation of machines. Company's plant at Beverly, Mass., has a floor space of 21 acres, employing about 4,200 hands. In September, 1910, it issued $1,500,000 of common stock to acquire the shoe-machinery and shoe-manufacturing interests of Thomas G. Plant—

And so forth.

Now, Mr. President, without reading more—and Senators can find more information in Poor's Manual, at page 1077—I proceed to say that this company, owning three hundred and odd kinds of machines, could nevertheless not dominate the market but for the device I am about to discuss. It does now dominate the market; it is the most complete monopoly I know of, unless it be the zinc-oxide monopoly. It controls 99 per cent of the shoe-machinery business of the United States, and it does it in this wise: It has certain machines of a superior kind which perform some function in the process of manufacturing a shoe. It is also able to outfit an entire factory. It is thus able to compel every shoe manufacturer of the country to patronize it to some extent. Accordingly, when the shoe manufacturer comes to buy one of its machines it forces him to sign a contract which contains this clause:

The leased machinery shall be used for no other purpose than for lasting boots, shoes, or other footwear made by or for the lessee. The leased machinery shall not, nor shall any part thereof, be used in the manufacture or preparation of any welted boots, shoes, or other footwear or portions thereof—

Now, notice—

which have been or shall be welted in whole or in part or the soles in whole or in part stitched by the aid of any welt-sewing or sole-stitching machinery not held by the lessee under lease from the lessor, or in the manufacture or preparation of any turned boots, shoes, or other footwear or portions thereof the soles of which have been or shall be in whole or in part attached to their uppers by the aid of any turned-sewing machinery not held by the lessee under lease from the lessor, or in the manufacture of any boots, shoes, or other footwear which have or shall be in whole or in part pulled over, slugged, heel seat nailed, or otherwise partly made by the aid of any pulling-over or "metallic" machinery not held by the lessee under lease from the lessor.

Mr. WALSH. Mr. President, before the Senator proceeds I should like to know if it is the idea of the Senator that that kind of a contract is justified by the decision in the case he has cited?

Mr. REED. I think it is. I say, however, that there has been an effort made, and the Government is making a most strenuous effort, to distinguish. Whether the Government will ever be able to distinguish is a question that we can answer accurately only when the courts have responded with their decisions.

Mr. WALSH. Can the Senator tell us now in what way the Government attempts to distinguish?

Mr. REED. I do not think I can at this moment with the accuracy and clearness with which I should like to make the statement.

Mr. WALSH. Will the Senator pardon me if I endeavor to state what it is?

Mr. REED. I shall be very glad to have the Senator do so.

Mr. WALSH. My understanding about the matter is that the court ruled in the Typewriter case that the typewriter being patented, or a patented invention being used in it, a contract could be made with the purchaser of the typewriter that all supplies to be used in connection with that typewriter must be bought of the manufacturer, and that contract was justified. In the Shoe-machinery case they go beyond that, and require not only that all supplies used in connection with the patented machine shall be bought of the company, but that all other machinery that they have in their factory, patented or unpatented, must be bought of that particular company.

Mr. REED. And it will take a mind that is capable of making very fine distinctions to draw a line between the two cases. In the one case a man having a patented article stipulates that certain materials used upon that article shall be purchased from an individual. In the other case the stipulation is that certain machinery to be used in connection with the patented machine shall be purchased from an individual. Without undertaking to say that the Government will lose this suit, I do say that if it wins the suit it will be upon some very narrow and technical ground.

Why should we, who have the power to act, and act now, wait for the uncertainty of such a decision? If there were no such thing as a machinery trust, if there were no such thing as a machinery trust contract, if the question rested alone upon the line of decisions, of which the Dick case is typical and which hold that you can attach to a patented article a condition compelling the owner of the article to use goods that are unpatented, but are sold by the owner of the patent upon the machine, even if that is the extent of the wrong, why should it be permitted to go on? What right have we to allow the continuance of a rule of that character when we can in a few moments of time wipe it out? Why should we leave it to the uncertainty of courts, to the refinements of judges and lawyers, when there is vested in our hands the power and the authority to remedy the wrong?

I call attention again to the language of Chief Justice White, because I want to impress upon the Senate the importance of the subject, even if we exclude the Shoe Machinery Trust. I call attention again to his language, in which he says that under the doctrine that is now established the patentees selling an engine may, under the patent laws, contract that all the coal used on the engine shall be purchased from a certain man; that a carpenter purchasing a plane might be held to be bound to use lumber furnished by the man who sold the plane, and so on through the long list of illustrations he has given. Then I call attention to his statement that he writes this opinion in part to make it clear that—and I quote—

If evils arise, their continuance will not be caused by the interpretation now given to the statute but will result from the inaction of the legislative department in failing to amend the statute so as to avoid such evils.

Mr. President, why not restore section 4? It puts no restriction upon fair and honest trade. It places the patentee of an article where it was originally intended that he should be placed, in a position where he can manufacture his article and sell it to whomsoever he pleases. It only says to him, "Because the Government has given you a patent entitling you alone to manufacture a certain article, you can not, under that generous grant of the Government, set up a scheme which, in effect, destroys the general law of the land."

I come back, however, to state once more the position I have so often stated. I come to those Senators who voted to strike out section 4, in the belief that section 5 of the trade commission bill would reach this evil, with the appeal that, in view of the decision of the Supreme Court of the United States, these particular practices are legal; in view of the fact that the Supreme Court bottoms the right to engage in these practices upon the statutes of the United States; in view of the fact that the Supreme Court of the United States has said there is but one place where a remedy can be had, and that is in Congress; in view of all this, I ask Senators to agree with me that section 4 must be restored, because a trade commission certainly can not declare to be illegal that which the Supreme Court of the United States has said is a legal right, bottomed upon a statute of the United States.

Mr. WALSH. Mr. President, the Senator from Missouri has made a very substantial and very valuable contribution to this debate in inviting the attention of the Senate to the importance of making some provision to meet the conditions which were presented to the Supreme Court in the Typewriter case to which he has adverted. I am not entirely certain that section 5 of the trade commission bill, which denounces as unlawful all forms of unfair competition, would not now make illegal that which was legal when the decision of the Supreme Court was rendered.

Mr. President, it is expected by those who believe there is efficacy in section 5 of the trade commission bill that many practices which can not now be denounced as illegal, but which are revolting to a refined public conscience, will be held to be denounced by that act. Of course I appreciate very well that in this view the Senator from Missouri does not concur; but upon that matter the Senate has evinced a conviction contrary to the opinion that was entertained by him. I address myself to those Senators who believe there is efficacy in the provisions of section 5 of the trade commission bill.

It happens that one of the many practices heretofore tolerated under the law came before the Supreme Court, which held that in the then state of the law that particular practice was not illegal. I apprehend that if the matter of local price cutting had ever come before the Supreme Court of the United States and one had been shown to have sold goods within a certain specified locality at considerably less than their actual cost, with the necessary and legitimate consequence of practically driving a weak competitor out of business, that particular act probably would be declared by the Supreme Court of the United States not in itself to be illegal. Take the matter, for instance, of espionage. You can very readily understand that many methods of espionage could not be denounced by any court before which they came as a violation of either the civil or the criminal law so as to subject the individual guilty of them either to damages or to punishment in the ordinary course of the law. Whether, then, it will be held that by virtue of section 5 of the trade commission act we have made unlawful that which at the time of the rendition of the decision to which the attention of

the Senate has been called was entirely legal I do not undertake to say.

I fully agree with the Senator from Missouri that we should take no chances whatever upon that matter, and that there should be a distinct provision in the bill now under consideration which will put contracts of that character under the ban of the law.

The Senator from Oklahoma [Mr. GORE] introduced a bill on this subject, as he has told us, during the last session of Congress, and with very few changes it will answer all the purposes of a section of this bill, which will take care of the features to which our attention is now addressed by the Senator from Missouri. I shall myself offer an amendment of that character, and hope to get for it the approbation of the committee. It will, however, be a simple declaration that just exactly the kind of contract which was considered by the Supreme Court in the case to which the Senator now calls our attention is unlawful. Thereafter there will be no question at all about it.

Mr. President, I want to say with reference to that subject that the more I have reflected upon this matter the more I am convinced that when that feature of the case is taken care of section 4 ought not to be restored to this bill. I instanced a while ago, in the course of a colloquy with the Senator from Missouri, the conditions which might arise in the case of what is known as exclusive agencies, where one struggling against a practical monopoly already established is met with the absolute necessity, in order to get his goods before the people at all, of establishing an exclusive agency, of putting the handling of those goods in the hands of a man who will contract not to sell the goods of any other manufacturer of the same character, in order that he may the more diligently press the adoption of those goods upon the trading public. But, Mr. President, in the report of the House committee we are assured—and that assurance seems to me a sound one—that the present bill does not denounce exclusive-agency contracts. It is said that the bill has nothing to do with agencies, but deals only with the case of commodities sold, leased, or contracted for sale. But, Mr. President, exactly the same conditions obtain under those circumstances that obtain in the case of the exclusive contract.

An instance was called to my attention by the junior Senator from the State of New Jersey [Mr. HUGHES], who has an intimate acquaintance with that feature of the case. He says, for instance, that Clark's and Coats's thread are the standards upon the market. Every housewife knows about those threads. We all understand that Clark and Coats are in a combination, which is now practically a trust, and to a very great extent a monopoly, if not a complete monopoly.

Some one, recognizing the disfavor into which those brands have fallen by reason of their control by this monopoly, goes to work and establishes a business and manufactures a thread in every way the equal of the thread put out by that institution, and he wants to get it before the public. A general dealer has Jones's thread, he has Clark's thread, and he has Coats's thread. The housewife goes there, and she wants a spool of thread. She is asked which she wants, and, of course, she wants either Clark's or Coats's. They say, "Try Jones's thread; it is just as good, madam; we would like to sell you that thread." She says, "Oh, no; I do not want anything just as good; I want the real thing." So she will not buy the new thread at all. Everyone must recognize that the new man seeking to get into business in opposition to a monopoly already established has to make some extra inducements to merchants to take his thread and to take no other kind of thread, and to press it upon the market and upon his customers with all the eloquence and skill as a salesman that he can command.

Therefore, Mr. President, I think it would be unwise in us to denounce under any and all circumstances that may possibly arise the sale of an article with a contract that the goods of no other manufacturer in the same line should be handled by him who buys. In other words, Mr. President, I believe we ought to leave to the trade commission the question as to whether, under the particular circumstances of the case, it is unfair competition or is not unfair competition; to enjoin and restrain it whenever it seems to promote monopoly and allow it to be exercised with perfect freedom when the effort is made to overcome the exactions of a monopoly. That, Mr. President, is the reason why I think the provision ought to be restored.

Now, let me speak for a moment about the other provision. I think the provision to which the attention of the Senate has been called needs to be taken care of. The feature to which your attention is invited, which is presented by the operations of the shoe machinery company, is being very properly taken care of. They have established a monopoly by the methods which have been indicated by the Senator. The original decision simply covered the ground that whenever one owns a patented machine he may by a contract require any purchaser of the machine to buy from him all the supplies necessary for the operation of that machine.

It never went so far as to provide that he must buy every other article of furniture in his store or in his office. For instance, here is a man who manufactures typewriters. It is a patented machine. He can require me as a lawyer, if I desire to buy his machine, to enter into an agreement with him that I will buy all my carbon paper from him, all my stationery used in connection with it, all the ink that I use in connection with it, but he can not compel me to agree, nor would such a contract made with me be lawful, that I must buy all my office furniture from him; that I must buy all my law books from him; that I must buy the coal from him that I burn in the stove in my office, nor the water that is supplied, nor the towels with which I wipe my hands. Those things he can not do, and no court will ever determine that a contract of that character is anything except a contract contrary to public policy.

Mr. REED. If I do not interrupt the Senator——

Mr. WALSH. Not at all.

Mr. REED. I should like to ask the Senator if he thinks we ought to sanction the very practice he last described; that is, a man selling a typewriter and then stipulating that the owner of the typewriter must buy the paper and supplies from the man who sold the typewriter?

Mr. WALSH. Certainly not. I agree with the Senator that that should be condemned.

Mr. REED. The Senator says that the doctrine has never been extended to anything except the supplies that are to be used on the particular machine. At the risk of being wearisome, I call the Senator's attention to the views of Chief Justice White.

Mr. WALSH. Oh, yes; I understand the Chief Justice held that many evil consequences would flow from it, and the fact that the decision was very much more ample than the majority of the court declared.

Mr. REED. I call attention to the language. I do not say that it is necessarily sound, I do not say it is necessarily controlling; but I do say that if, in the opinion of the great majority, these results would follow which he states, we ought as wise legislators to remove that danger. This is the language of the Chief Justice:

> I do not think it necessary to stop to point out the innumerable subjects which will be susceptible of being removed from the operation of State judicial power and the fundamental and radical character of the change which must come as a result of the principle decided. But, nevertheless, let me give a few illustrations:
>
> Take a patentee selling a patented engine. He will now have the right by contract to bring under the patent laws all contracts for coal or electrical energy used to afford power to work the machine or even the lubricants employed in its operation. Take a patented carpenter's plane. The power now exists in the patentee by contract to validly confine a carpenter purchasing one of the planes to the use of lumber sawed from trees grown on the land of a particular person or sawed by a particular mill.

Mr. WALSH. Mr. President——

Mr. REED. I merely want to say I do not claim that the opinion of Chief Justice White upon that point stated particularly in the way of argument is any more controlling than the opinion of any Senator who has considered the subject, but it is potential. However, I should like to call the Senator's attention to this language in the majority opinion, at page 40:

> It does not matter how unreasonable or how absurd the conditions are. It does not matter what they are, if he says at the time when the purchaser proposes to buy or the person to take a license: "Mind, I only give you this license on this condition," and the purchaser is free to take it or leave it, as he likes. If he takes it, he must be bound by the condition. It seems to be common sense, and not to depend upon any patent law or any other particular law.

That is a quotation from the Cantelo case, what Mr. Justice Wills said, which the court seemed to approve.

Mr. WALSH. Mr. President, I have but little in addition to say. I agree with the Senator that that particular matter ought to be taken care of, and I read the bill offered by the Senator from Oklahoma [Mr. GORE] in the Sixty-second Congress, which, in my judgment, completely meets the situation. It is brief, and is as follows:

> *Be it enacted, etc.*, That it shall not be lawful to insert a condition in any contract relating to the sale, lease, or license to use any article or process protected by a patent or patents, the effect of which will be to prohibit or restrict the purchaser, lessee, or licensee from using any article or class of articles, whether patented or not, or any patented process, supplied or owned by any person other than the seller, lessor, or licensor, or his nominees, and any such seller, lessor, or licensor, or his nominees, who shall violate the provisions of this act shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by fine not exceeding $5,000, or by imprisonment not exceeding one year, or by both said punishments, in the discretion of the court.
>
> SEC. 2. That it shall be unlawful to insert a condition in any contract relating to the sale, lease, or license to use any article or process protected by a patent or patents, the effect of which will be to require

the purchaser, lessee, or licensee to acquire from the seller, lessor, or licensor, or his nominees, any article or class of articles not protected by the patent, and any such condition shall be null and void as being in restraint of trade and contrary to public policy; and any such seller, lessor, or licensor, or his nominees, who shall violate the provisions of this act shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by fine not exceeding $5,000, or by imprisonment not exceeding one year, or by both said punishments, in the discretion of the court.

I shall offer this bill with the penal provisions taken out of it as an amendment to the pending bill in order to meet, as I think it largely meets, the objection now urged by the Senator from Missouri. I will say in explanation that I shall ask the penal provisions to be excluded, because we have not attached any penal provision whatever to any form of unfair competition, and I do not want to subject the patentee to any harsher restrictions or limitations than the man who sells a machine which is not patented. The man who sells a machine which is not patented and couples with it a provision that all other machinery in the factory in which it goes be bought from him is simply subject to injunction by the trade commission, and we ought to put the patentee upon the same footing as the man who deals in the unpatented article with reference to that.

Mr. REED. Before the Senator takes his seat I should like to get his views a little further on one matter. He expressed a doubt as to whether section 5 of the trade commission bill might not have changed the laws as declared by the Supreme Court in the case we are referring to. That decision is based upon a statute of the United States. Does the Senator think that the general language of section 5 may repeal the law as declared by a court based upon that statute?

Mr. WALSH. The Senator read us a number of times the declaration of the court to the effect that the practice was not illegal, that if it was to be made so it must be by the act of Congress. I suggested the possibility, at least, of the construction of section 5, namely, that section 5 of the interstate-commerce act might be construed as thus supplying the legislation which the Supreme Court said was necessary in order to make that illegal.

Mr. REED. Mr. President, if it is true or if it is a matter that may be true in the opinion of the Senator, then it follows that if section 5 has repealed the law as declared by the Supreme Court and has changed the law of patents as it stands in the patent statutes, we may have repealed every trust act that has ever been put upon the statute books, and every trust decision, and taken away from the courts every authority and vested it all in this commission. If that is the case, we are certainly treading on very dangerous ground.

Mr. WALSH. I should not think the conclusion would follow at all, and for myself I have no apprehension.

Mr. CULBERSON. On the contrary, the provision of the trade commission bill expressly denies that that construction shall be placed upon the bill.

Mr. WALSH. The Senator has confined his remarks very largely to the provisions of section 4—in fact, as my recollection is, entirely to the provisions of section 4. But, Mr. President, the motion to reconsider embraces section 2 as well as section 4, and section 2 refers to that form of unfair competition generally denominated as local price cutting. The motion to reconsider, if it prevails, embraces section 2 as well as section 4.

Perhaps the most conspicuous offender in the matter of unfair competition by local price cutting has been the great Standard Oil Co. As illustrative of how very difficult it is to frame a statute which will reach what we desire to reach in these particular instances, let me call your attention to a criticism of section 2 as it stands in the bill that is made by some of the competitors and rivals left in the field of the Standard Oil Co. I read a letter recently received from the Independent Petroleum Marketers' Association of the United States. The writer says:

> As you perhaps have heard, the independent oil men of the country are directly interested in section 2 of the so-called Clayton bill, because that is what we have called the "antidiscrimination law," and which we have caused to be placed on the books of perhaps a score of States in the last 8 or 10 years.

The Senate has heretofore been advised that my own State is one of those which has enacted a statute of that character. He continues:

> Since the Clayton bill has been in the Judiciary Committee of the House we have been trying to get consideration for an amendment to section 2 which would define the word "trausportation" in line 16, page 3, of the bill as reported out by the Senate Judiciary Committee on July 22, so that discrimination in prices between purchasers would be only to the extent of the difference in the cost of "common-carrier transportation." The Standard Oil Co. has tried to make out that the word "transportation" meant all carrying costs, and has endeavored to take advantage of their interpretation of the word and vary their prices to the extent of an alleged difference in their cartage cost, which difference we have maintained is purely fictitious and have shown that it exists only at points of greatest competition with our members.
>
> Now, I notice that the Senate Judiciary Committee, to whom this association addressed some letters on the subject of our proposed amendment some several weeks ago, has gone, in our opinion, even further than the Standard Oil Co.'s interpretation of the word "transportation" and permitted a difference to the extent of not only the "selling cost," but also to "meet competition." In our opinion, these two provisos are entirely too vague and undefinable, and we believe that they would permit such a company as the Standard Oil Co. to vary the prices very much at will and that it would be almost impossible to make a case against them.
>
> In fact, the last amendment, permitting "discrimination to meet competition" simply, in our opinion, legalizes what the Standard Oil Co. was noted for in the past and what it is doing, in a measure, to-day—that is, cut prices to meet competition. Not necessarily to meet the competitor's prices, because the amendment says nothing about the competitor's prices.
>
> Frankly, it is our opinion at the present time that that committee's amendment to section 2 makes it absolutely worthless, but undoubtedly there must have been some argument for the amendments or the majority would not have included them. I would be glad to go down to Washington and talk this over with you if you think it would be at all worth while.

I did not invite the gentleman to come. I call your attention to this merely for the purpose of showing that the very greatest kind of a controversy will arise at the very outset concerning what this statute which we have proposed means and likewise as to whether it meets the requirements of the case at all.

I believe that when we have dealt with the whole subject of unfair competition and allow the trade commission to take up each individual case and to inquire into the particular facts of that case, we have done wisely, and that we ought not now within the narrow terms of a statute attempt to define the particular varieties of unfair competition which we thus seek to prevent and suppress.

Mr. STONE. Mr. President, I said to the Senator from North Carolina [Mr. OVERMAN] this morning that I would be glad if he would call up the motion he had entered to reconsider the votes of the Senate striking out sections 2 and 4 of the pending bill so that the matter might be disposed of to-day before I should be obliged to leave the city. This he kindly did as soon as circumstances permitted, but as I shall have to leave the Senate within the next 10 minutes I fear that I can not be present when the vote is taken on the motion nor have any opportunity of expressing my views with respect to those sections.

I have believed, Mr. President, that the majority of the Committee on the Judiciary acted wisely in leaving these sections out of the bill, and I intended by my vote to support their action. The whole afternoon has been taken up in a very interesting and able debate devoted chiefly to a reargument of the trade commission bill. We went over all the questions involved here when that bill was up for consideration, when amendments were offered to it embodying substantially the more important features of the sections that have been dropped from the pending bill. The Senate declined to put them in that measure, and I think acted wisely in that behalf.

These sections were put into the pending bill before the trade commission bill had been acted upon, before it was known what might be done or even proposed in that measure. I think, with the Judiciary Committee, that every precaution has been taken that it is wise to attempt in the provisions of the trade commission bill.

I believe, Mr. President, that sections 2 and 4 would operate to the advantage of those great concerns that we are wont to denounce as monopolies, and would bring to them in the long run more benefit than it would to anybody else. It is possible that drastic provisions of the kind embodied in sections 2 and 4 might tend to remedy an evil, or what many people would regard as an evil, here and there. On the other hand, I think there can be no kind of doubt that it would result almost certainly in doing undeserved and unmerited harm, or at least that it might be used to that end in doing injury to younger, weaker, struggling industries that are striving to establish themselves. If I had the time, Mr. President, to do what I had intended if I had secured the opportunity, I believe I could demonstrate the truth of the statement I have just made. Now, I can not enter upon the discussion of the question, for within two minutes I am obliged to leave. I wish I could have an opportunity to register my vote in opposition to the motion to reconsider, but I can not have that privilege.

Mr. President, I think it the wise thing to do to follow the lead of the Judiciary Committee, which has given attentive and most thoughtful consideration to this whole subject, and not to venture, somewhat blindly, into experiments that may result in infinitely more harm to the public, to the people generally, than good.

That is all I have time to say, but since I can not vote on this motion, I have taken these four or five minutes, at least, to register my judgment against these provisions of the bill.

Mr. CULBERSON. Question!

The VICE PRESIDENT. The question is on the motion to reconsider the votes striking out sections 2 and 4 of the bill.

Mr. KENYON. Mr. President, there are a few Senators who desire to be heard on this motion. They are not ready to speak to-night; in fact, I think one of them is not present, and I ask the Senator in charge of the bill if he will not permit the vote to go over until to-morrow. Of course, I could proceed and occupy the floor until 6 o'clock, but I should prefer not to speak until to-morrow.

Mr. KERN. I move that the Senate adjourn until 11 o'clock to-morrow.

The motion was agreed to; and (at 5 o'clock and 30 minutes p. m.) the Senate adjourned until to-morrow, Saturday, August 22, 1914, at 11 o'clock a. m.

HOUSE OF REPRESENTATIVES.

FRIDAY, *August 21, 1914.*

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

O Lord God of hosts, look down from Thy throne of grace with patience upon Thine erring children, and have compassion upon them. Thou knowest us altogether, our weakness, our vanity, and the sins which doth so easily beset us. Rebuke the haughty, humble the arrogant, expose the hypocrite, undo the egotist, give strength for weakness, wisdom for foolishness, faith for doubt, hope for dispair, love for hate; for where faith is there is confidence, where hope is there is progress, where love is there is peace. Thus rule and overrule, that Thy will may be done to the glory and honor of Thy holy name. Amen.

The Journal of the proceedings of yesterday was read and approved.

CALL OF THE ROLL.

Mr. MANN. Mr. Speaker, I make the point of order there is no quorum present.

The SPEAKER. Evidently there is not a quorum present.

Mr. UNDERWOOD. Mr. Speaker, I move a call of the House.

The SPEAKER. The gentleman from Alabama moves a call of the House.

The question was taken, and the motion was agreed to.

The SPEAKER. The Doorkeeper will close the doors, the Sergeant at Arms will notify absentees, and the Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names:

Aiken	Driscoll	Hobson	Morgan, La.
Ainey	Drukker	Hoxworth	Morin
Ansberry	Dunn	Hughes, Ga.	Moss, W. Va.
Anthony	Dupré	Hughes, W. Va.	Mott
Aswell	Eagan	Hulings	Murdock
Austin	Eagle	Johnson, S. C.	Murray, Okla.
Baltz	Edmonds	Kahn	Neeley, Kans.
Barchfeld	Elder	Keister	Nelson
Bartholdt	Esch	Kelley, Mich.	O'Brien
Bartlett	Estopinal	Kelly, Pa.	Oglesby
Beall, Tex.	Fairchild	Kennedy, R. I.	O'Leary
Bell, Ga.	Faison	Kent	O'Shaunessy
Brodbeck	Farr	Key, Ohio	Padgett
Brown, N. Y.	Fields	Kiess, Pa.	Palmer
Brown, W. Va.	Finley	Kindel	Parker
Browne, Wis.	Fitzgerald	Kinkead, N. J.	Patten, N. Y.
Browning	Fordney	Kirkpatrick	Patton, Pa.
Bruckner	Foster	Knowland, J. R.	Peters
Brumbaugh	Francis	Konop	Peterson
Buchanan, Ill.	Frear	Kreider	Platt
Bulkley	Gard	Lafferty	Plumley
Burke, Pa.	Gardner	Langham	Porter
Butler	George	Langley	Post
Byrnes, S. C.	Gill	Lazaro	Powers
Calder	Gillett	Lee, Ga.	Ragsdale
Callaway	Gittins	L'Engle	Rainey
Campbell	Gilmore	Lenroot	Reed
Cantor	Goeke	Lesher	Reilly, Conn.
Carew	Goldfogle	Lever	Riordan
Casey	Glass	Lewis, Pa.	Rothermel
Church	Goulden	Lindbergh	Rubey
Clancy	Graham, Ill.	Lindquist	Rupley
Collier	Graham, Pa.	Linthicum	Sabath
Connolly, Iowa	Griest	Loft	Scully
Conry	Griffin	Logue	Sells
Covington	Guernsey	McAndrews	Sherley
Cramton	Hamill	McGillicuddy	Sherwood
Crisp	Hamilton, Mich.	McGuire, Okla.	Shreve
Crosser	Hamilton, N. Y.	McKenzie	Slemp
Dale	Hardwick	Madden	Smith, Md.
Decker	Hart	Mahan	Smith, Minn.
Dickinson	Haugen	Maher	Smith, N. Y.
Dies	Hayes	Manahan	Stafford
Difenderfer	Helm	Martin	Stanley
Dixon	Henry	Merritt	Steenerson
Dooling	Hensley	Mondell	Stephens, Miss.
Doremus	Hinds	Moore	Stephens, Nebr.
Stringer	Treadway	Walker	Whitacre
Sutherland	Tribble	Wallin	White
Switzer	Underhill	Walsh	Willis
Ten Eyck	Vare	Watkins	Wilson, N. Y.
Thompson, Okla.	Vollmer	Weaver	Winslow
Townsend	Volstead	Whaley	Woodruff

The SPEAKER. The Clerk will call my name.

The name of Mr. CLARK of Missouri was called, and he answered "Present."

The SPEAKER. On this roll call 220 Members have answered to their names—a quorum.

Mr. UNDERWOOD. Mr. Speaker, I move to dispense with further proceedings under the call.

The question was taken, and the motion was agreed to.

The SPEAKER. The Doorkeeper will open the doors. The Chair will state for the information of all concerned that the reason there was such a large number who did not answer to their names when called was because the bells were out of fix and we had to temporize and arrange so as to notify Members over in the House Office Building.

BILLS ON THE PRIVATE CALENDAR.

Mr. GREGG. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House for the consideration of bills on the Private Calendar.

The SPEAKER. The gentleman from Texas moves that the House resolve itself into the Committee of the Whole House for the consideration of bills on the Private Calendar.

The question was taken, and the Speaker announced the noes appeared to have it.

Mr. GREGG. Division, Mr. Speaker.

The House divided; and there were—ayes 107, noes none.

So the motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House for the consideration of bills on the Private Calendar in order to-day, with Mr. BARNHART in the chair.

The CHAIRMAN. The House is in the Committee of the Whole House for the consideration of bills on the Private Calendar. The Clerk will report the first bill.

The Clerk read as follows:

A bill (H. R. 6880) to carry out the findings of the Court of Claims in the case of Florine A. Albright.

Mr. GREGG. Mr. Chairman, on a previous day that bill passed the Committee of the Whole House and was laid aside with a favorable recommendation, and has never been reported to the House; so there is nothing more for the Committee of the Whole House to do with reference to that bill. The bill has been laid aside with a favorable recommendation.

Mr. MANN. Mr. Chairman, that bill was reported to the House.

Mr. GREGG. And it has never been acted upon by the House, and there is nothing before the committee.

Mr. MANN. It is not pending in the committee.

The CHAIRMAN. The Clerk will report the next bill.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED.

Mr. ASHBROOK, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bill and joint resolution of the following titles, when the Speaker signed the same:

H. R. 14155. An act to amend an act of Congress approved March 28, 1900 (vol. 31, Stat. L., p. 52), entitled "An act granting to the State of Kansas the abandoned Fort Hays Military Reservation, in said State, for the purpose of establishing an experiment station of the Kansas State Agricultural College, and a western branch of the State Normal School thereon, and for a public park."

H. J. Res. 246. Joint resolution to authorize the Secretary of War to grant a revocable license for the use of lands adjoining the national cemetery near Nashville, Tenn., for public-road purposes.

The SPEAKER announced his signature to enrolled bills of the following titles:

S. 6315. An act to authorize the Great Western Land Co., of Missouri, to construct a bridge across Black River; and

S. 5673. An act to amend an act entitled "An act to protect the locators in good faith of oil and gas lands who shall have effected an actual discovery of oil or gas on the public lands of the United States, or their successors in interest," approved March 2, 1911.

NATHANIEL F. CHEAIRS.

The next business in order on the Private Calendar was the bill (H. R. 8696) for the relief of Nathaniel F. Cheairs.

The Clerk read as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to Nathaniel F. Cheairs, of Columbia, Maury County, Tenn., out of any money in the Treasury not otherwise appropriated, the sum of $12,319.47, in full compensation

for the net proceeds of cotton sold by the Government in 1864 and placed in the Treasury of the United States, and in accordance with the findings heretofore made by the Court of Claims.

Mr. GREGG. Mr. Chairman, I yield to the gentleman from Tennessee [Mr. HOUSTON].

Mr. HOUSTON. Mr. Chairman, this is a case in which Nathaniel F. Cheairs, a citizen of Columbia, Tenn., had 50 bales of cotton taken from him by the Federal Army. This cotton was sold by the Federal officers, and the proceeds, after deducting expenses, were paid into the Treasury of the United States. Now, we have the finding of the Court of Claims establishing the fact of the amount and the report of the Secretary of the Treasury. It appears, Mr. Chairman, that Nathaniel F. Cheairs was in the Confederate Army. It further appears that the President of the United States granted a pardon to the claimant, that he took the oath of amnesty according to the offer made in the proclamation made by the President of the United States, and that he complied with all of its terms. Now, under that state of facts there is no reason why this money, which is now in the Treasury, should not be paid over to Mr. Cheairs. I might say that this claim was filed after the holding of the United States Supreme Court that the taking of this oath under this pardon of the President was a full release from all offenses, and the party did not know his standing in court in time to file his claim within the time the statute of limitation would run. I believe that is all I have to say now. I reserve the balance of my time.

The CHAIRMAN. The question is, Shall the bill be laid aside with a favorable recommendation?

Mr. MANN. Not yet, Mr. Chairman.

Mr. HOUSTON. Mr. Chairman, I move that the bill be laid aside with a favorable recommendation.

Mr. MANN. Well, hardly. Mr. Chairman, will the gentleman yield the floor?

Mr. HOUSTON. Yes, sir; for the present. Does the gentleman desire to discuss the measure?

Mr. MANN. I expect to do so.

Mr. HOUSTON. I yield to the gentleman so much time as he may desire.

Mr. MANN. I do not ask the gentleman to yield any time to me.

The CHAIRMAN. For what purpose does the gentleman from Illinois [Mr. MANN] rise?

Mr. MANN. To ascertain whether the gentleman from Tennessee has yielded the floor or not.

Mr. HOUSTON. I reserve the balance of my time, Mr. Chairman.

The CHAIRMAN. The gentleman from Tennessee [Mr. HOUSTON] reserves the balance of his time. The gentleman from Illinois [Mr. MANN] is recognized.

Mr. MANN. Mr. Chairman, this is a bill directing the Secretary of the Treasury to pay to Nathaniel F. Cheairs the sum of $12,318.47, stated to be in full compensation for the net proceeds of cotton sold by the Government in 1864 and placed in the Treasury of the United States, and stated to be in accordance with the findings heretofore made by the Court of Claims. The case involves a proposition affecting hundreds of millions of dollars' worth of claims. It ought to be very carefully considered by Congress before it is enacted. The report shows that the claimant had 50 bales of cotton taken from him by the United States Army, which was sold by United States officers, and the proceeds, after deducting all expenses, were paid into the United States Treasury, and they have not been paid out. It is stated by the Secretary of the Treasury, and found by the Court of Claims, that the sum placed in the Treasury, after deducting expenses, and so forth, is the sum named in the bill—$12,318.47. Claimant was an officer, or, at least, was in the Confederate Army, but on application he received a special pardon from the President of the United States. He took the oath of allegiance required by the terms of the pardon, which is on file in the office of the Secretary of State, who acknowledged the receipt of the same. He notified the Secretary of State that he accepted the terms of said pardon in good faith. The committee finds that he has complied with the conditions of the pardon from the time he accepted it, and it is stated that he so testified in his deposition now on file in the Court of Claims, and the committee finds that, therefore, he was loyal and restored to all of his rights in his property. And the claim is made that anyone who was disloyal to the Government during the Rebellion, but who was afterwards pardoned, is thereby rendered innocuous from the disloyalty. As a matter of fact, while there was a special pardon granted in this case, there is a general pardon by statute as to all persons who served in the Confederate Army or who were otherwise disloyal. And the claim now, as made by the committee in this case, that an officer or other person whose property was taken and who was disloyal during the Rebellion has his disloyalty removed by a pardon, would go to the extent, if followed out logically, of removing the disloyalty in all claims against the Government for property taken during the Civil War.

Gentlemen can not fail to note, in the last few days in the newspaper reports of the war in Europe, that armies are not too particular when in an enemy's country about property they destroy or property which they take. Probably the Union Army was not any more particular than armies in civilized countries usually are. Hundreds of millions, if not thousands of millions, of property was taken or destroyed during the war. That is one of the inevitable effects of war. There are some people who have grown to imagine during the last few years of peace in the world that war is a kind of pink-tea affair, where combatants, at a convenient and safe distance from each other, only fire harmless bullets or balls at each other. But that is not the way war is conducted.

Now, it being one of the inevitable effects of war, it has universally been held that when property belonging to the enemy or belonging to those persons who had adhered to the enemy as a part of the conduct of the war is taken or destroyed, they had no claim for the payment of the damages or for the property taken. Yet we are told now that because this claimant, who was, as I recall, an officer, although I am not sure about that—I think the gentleman from Tennessee stated that he was an officer——

Mr. HOUSTON. I am not sure whether he was an officer or not.

Mr. MANN. He was in the Confederate Army, anyway. I am not sure whether he was an officer or not. It is claimed that because he was pardoned and restored to his civil rights—as everybody now is who took part in the War of the Rebellion—therefore he has a claim against the Government for property which was taken from him, which he would not have had if he had not received a pardon. Now, as a matter of fact, there is no distinction between his case and all the other cases. We provide in the statutes for reference of certain claims by the different Houses of Congress to the Court of Claims for findings of facts, and provide in the law that the claimant must assert and prove his loyalty.

Of course, we are not bound here, in passing upon a particular claim, by any statute which we may make in reference to the Court of Claims. We can pay anybody we please, out of the National Treasury, any sum we please on any excuse we please, or without any excuse at all. But if Congress undertakes to pay the claims of citizens in the South who had their property taken or destroyed by the armies of the North, they being in sympathy with the Confederate States, we will have to find ways of raising more than $100,000,000 a year, the sum it is suggested the European war will cause us to raise.

There was much more than $100,000,000 worth of property destroyed in the South each year. There were vast sums of value lost. The Southern States lay stricken at the end of the war, so far as their commercial and agricultural prosperity was involved. It might be generous for us to pay that all back; but generosity in the world has never yet gone to the extent of the army which succeeds, or the country which suceeds, paying to the losers all the damage which accrued. When the Franco-German War ended Germany required France to pay, I think, about $1,000,000,000—5,000,000,000 francs. That looked pretty harsh, but who would dream that at the end of the war Germany should be called upon to pay to France the damage which the German army had caused to French property and French citizenship?

The committee says:

In the case of Paddleford *v.* The United States the Supreme Court of the United States, in 9 Wallace, 540, and in the case of Kline *v.* The United States, and 92 United States, 653, 13 Wallace, 137, decided that said fund was a trust fund, and that the effect of a pardon and compliance with its terms rendered the offender as innocent as if he had never committed the offense; that it made no difference whether the property had been seized before or after the oath had been taken. (See H. Rept. No. 1203, 60th Cong., 1st sess., Hamiter claim.)

And the committee sets out the pardon which was granted by Andrew Johnson, President, dated September 30, 1865. That was after the war had ceased, practically ceased. It reads:

ANDREW JOHNSON, PRESIDENT OF THE UNITED STATES OF AMERICA.

To all to whom these presents shall come, greeting:

Whereas N. F. Cheairs, of Columbia, Tenn., by taking part in the late rebellion against the Government of the United States, has made himself liable to heavy pains and penalties;

And whereas the circumstances of his case render him a proper object of Executive clemency;

Now, therefore, be it known that I, Andrew Johnson, President of the United States of America, in consideration of the premises, divers other good and sufficient reasons me thereunto moving, do hereby grant to the said N. F. Cheairs a full pardon and amnesty for all offenses by him committed arising from participation, direct or implied, in the said rebellion, conditioned as follows:

First. This pardon to be of no effect until the said N. F. Chears shall take the oath prescribed in the proclamation of the President, dated May 29, 1865.

Second. To be void and of no effect if the said N. F. Chears shall hereafter, at any time, acquire any property whatever in slaves or make use of slave labor.

Third. That the said N. F. Chears first pay all costs which may have accrued in any proceedings instituted or pending against his person or property before the date of acceptance of this warrant.

Fourth. That the said N. F. Chears shall not by virtue of this warrant claim any property or the proceeds of any property that has been sold by order, judgment, or decree of any court under the confiscation laws of the United States.

Fifth. That the said N. F. Chears shall notify the Secretary of State, in writing, that he has received and accepted the foregoing pardon.

In testimony whereof I have hereunto signed my name and caused the seal of the United States to be affixed.

Done at the city of Washington, this 30th day of September, A. D. 1865, and of the independence of the United States the ninetieth.

[SEAL.] ANDREW JOHNSON.

By the President:

WILLIAM H. SEWARD,
Secretary of State.

The committee finds that because he was granted this pardon in September, 1865, N. F. Chears is not barred, by reason of his participation on the Confederate side, from making a claim for property which was seized by the Army of the United States and sold prior to that time. It may be that my ingenious friends from Tennessee or other portions of the South, or from Texas—I do not mean to say that Texas is not in the South—will find some method of differentiating between this case and all other cases where property was taken, where pardon has been granted by act of Congress instead of by act of the President.

Now, are we going to pay all these claims? It will not be long, if we pay a few claims like this, until we are asked to pay, with a great deal more justice in the claims, for the value of the slaves which were made free. A great deal can be said in favor of the proposition. The property in slaves was destroyed by the proclamation of President Lincoln and the amendments to the Constitution of the United States. At one stroke of the pen men were made penniless who before had thousands of dollars of property in the form of slaves.

We hold no feeling against them. They are in full citizenship, with all the rights of any citizen in any place in the United States. Although 50 years have elapsed, and the bitterness and passion of the Civil War have passed away, I do not believe that the Government of the United States is called upon to pay for the property destroyed, or the property seized and used, or the property seized and sold, belonging to those who were fighting on the other side. If they had won, the property in the North that was destroyed would never have been paid for by the Confederate States—properly not paid for. Therefore I am opposed to the passage of the bill.

Mr. Chairman, I reserve the balance of my time.

Mr. GREGG. Mr. Chairman and gentlemen, the gentleman from Illinois [Mr. MANN] stated in the opening part of his speech that this bill involved the payment of a character of claims covering hundreds of millions of dollars. The gentleman's statement on that was about as nearly accurate and correct as other statements that he made. The facts are that a statement made by the Treasury Department of the United States, prepared by officials who are supposed, at least, to be unfriendly, shows that it involves only $4,208,000. The gentleman only missed the truth by about $96,000,000; that is all.

Mr. MANN. Mr. Chairman, will the gentleman yield?

Mr. GREGG. Yes; I will yield.

Mr. MANN. The gentleman is speaking now only of the cotton claims.

Mr. GREGG. The gentleman from Illinois stated that this bill involved claims that amounted to hundreds of millions of dollars.

Mr. MANN. I am sorry the gentleman did not listen to me——

Mr. GREGG. I took it down at the time——

Mr. MANN. Because he would have received much enlightenment if he had. The gentleman will pardon me; he has the time. I stated that the allowance of claims based upon the granting of a pardon, and thereby the removal of disloyalty, would involve hundreds of millions of claims.

Mr. GREGG. I do not know where the gentleman got those figures.

Now, the gentleman speaks a great deal about property taken and property destroyed. There is no desire on the part of anybody to pay for property destroyed as an act of war. Bills of that character are not favorably reported.

Now, the gentleman says that, as to property taken, it has been universally construed that for property taken from the enemy the enemy has no claim. That is not true. For a hundred years the rule of civilized warfare has been that if you take from the enemy stores and supplies that are useful to the army and use them the Government taking them is liable to the enemy for their value. That has been the rule of civilized warfare for a hundred years.

When we invaded Mexico we followed that rule. We paid the Mexicans on their soil for all the supplies and provisions that we took for the use of our Army. Wellington observed the same rule when he participated in the great Napoleonic wars. It has been the rule of civilized warfare, I say, for a hundred years, and no one purporting or claiming to be familiar with such law will deny it.

Now, then, leaving all that aside, here is what this case involves, and I want you gentlemen to listen to me for a minute: In 1863 Congress passed what is called the captured and abandoned property act. That act provided for gathering up certain property in the South and capturing certain other property. After it was gathered up it was to be sold and the money deposited in the Treasury. That was done. That law, however, had this provision: It provided that the owner of the property would have the right to sue within two years after the close of the war. It also provided that the owner must prove the ownership and prove that "he had never given any aid or comfort to the present rebellion."

Now, then, a suit came up on that. A man whose property had been seized and sold and the money put into the Treasury brought a suit. The Government appealed on a question of fact. The upper court held that he was not loyal, but it held that notwithstanding the fact that he was not loyal, his propery having been sold and the money deposited in the Treasury and he having been pardoned by the President his property rights vested in him, and the Supreme Court of the United States gave him a judgment for the money in the Treasury which represented the property that had been taken from him.

Now, if the gentlemen on that side or on this side have any doubt about that they will find the first case deciding that question was the Kline case (13 Wall., 138). Then there is the Armstrong case (13 Wall., 154). Then there is the Barcue case (13 Wall., 156) and the Carlisle case (13 Wall., 647). Then there is the Young case (97 U. S., 39).

Now, then, in all of these cases the Supreme Court has held that this money in the Treasury was a trust fund and belonged to the parties whose property was sold and the proceeds deposited in the Treasury.

In this particular case it is shown that the property was seized. It was not destroyed, it was not consumed. It was sold, and the proceeds were put in the Treasury, and they are there now, and the Supreme Court of the United States has held that the proceeds belong to this man; that he is entitled to them; and the only question for us to decide is whether we can forget that the war is over and refuse to hold up this man, or whether we are willing to follow the highest court of this land and restore to this man his simple rights. That is all. It is not a question of benevolence. It is not a question of generosity. It is a question of right. Now, will you hold him up, or will you do right by him? That is all there is for you to decide. His property is there. You have possession of it. The courts have held repeatedly that it is his. Now, simply because you have the might, will you rob him of what belongs to him?

Mr. McLAUGHLIN. Will the gentleman yield?

Mr. GREGG. Yes.

Mr. McLAUGHLIN. What was the proceeding by which this property was taken and sold?

Mr. GREGG. Under the captured and abandoned property act of 1863 the agents of the Government took this property, and they sold it in different markets, deducted the expense of sale and collection and all expenses connected with it, and deposited the net amount in the Treasury of the United States.

Mr. McLAUGHLIN. And that proceeding was followed in this particular case, was it?

Mr. GREGG. Yes; that was followed in this case, and the money is now in the Treasury.

Mr. McLAUGHLIN. Does this fourth clause in the warrant of pardon, issued by the President, apply to this case? I presume the gentleman is familiar with it. It says:

Fourth. That the said N. F. Chears shall not by virtue of this warrant claim any property or the proceeds of any property that has been sold by order, judgment, or decree of any court under the confiscation laws of the United States.

Mr. GREGG. Will the gentleman from Tennessee [Mr. HOUSTON] answer that question?

Mr. HOUSTON. I will state to the gentleman that the findings of the court show that—

None of the property of N. F. Chears was ever sold by the order, judgment, or decree of court under the confiscation laws of the United States.

So it does not come within that clause.

Mr. McLAUGHLIN. That is what I was trying to get at. That is why I asked the gentleman what the proceeding was by which the property of this man was taken and disposed of.

Mr. GREGG. I know the general proceeding, but I do not know the details. The gentleman from Tennessee will have to answer that.

Mr. HOUSTON. I can not give the gentleman the particulars. We have the general facts established that this cotton was seized by the Federal Army and by its officers, as set out in the findings of the court; that it was sold; and after deducting all the expenses of the sale, transporting the cotton to Cincinnati, perhaps, or some other point, the net sum realized was $12,318.47, which sum was turned into the Treasury of the United States.

Mr. McLAUGHLIN. What was the procedure taken in the case? Can not the gentleman be more specific in describing the procedure?

Mr. HOUSTON. I can not give the gentleman the details of the proceeding. It was done in accordance with the act of Congress passed in 1863, authorizing the taking of captured and abandoned property and selling it, and turning the proceeds into the Treasury. Just the particular steps that were taken in this case I am not able to state, further than is shown by the findings of the Court of Claims.

Mr. McLAUGHLIN. The reading of this would lead one to think that the warrant of pardon, if that is the proper term to apply to it, was issued with the express understanding and upon the express condition that the one to whom it was issued should make no claims for property taken, and the warrant says that it shall be in force only in case the one to whom it is issued accepts all the conditions contained in it. And Mr. Chears wrote to the Secretary of State the following letter, in which he signifies his acceptance of the same, and all the conditions contained in it:

WASHINGTON, D. C., *October 4, 1865.*

Hon. WILLIAM H. SEWARD,
Secretary of State.

SIR: I have the honor to acknowledge the receipt of the President's warrant of pardon bearing date September 30, 1865, and hereby signify my acceptance of the same, with all the conditions therein specified.

I am, sir, your obedient servant,

N. F. CHEAIRS.

It would look very much to me as if he had waived any claim for property taken from him under the ordinary proceeding by which property was taken during the war.

Mr. GREGG. My understanding of that is, if the gentleman will pardon me, that there was a time when these conditional pardons were granted, but afterwards there was a general pardon granted to everyone without condition.

Mr. HOUSTON. The exemption is as set out in this fourth clause:

That the said N. F. Cheairs shall not by virtue of this warrant claim any property or the proceeds of any property that has been sold by order, judgment, or decree of any court under the confiscation laws of the United States.

That is the only condition that is made, and the fact is stated in the findings of the court that none of his property had been sold by order of the court.

Mr. McLAUGHLIN. But the gentleman admits that it was taken in such a way that those who took it were acting under the laws of the country.

Mr. HOUSTON. Certainly; but——

Mr. McLAUGHLIN. It was taken in accordance with law. It was legally taken under the law which controlled the action of the agents of the Government at that time.

Mr. HOUSTON. This was not for the purpose of allowing him to recover property to which he had lost title—for instance, property which he might have sold to somebody else or against which some judgment had been rendered. That is the case provided for in the oath, and it only applies to property sold under order of a court.

Mr. McLAUGHLIN. As the gentleman who has the floor [Mr. GREGG] says this pardon was issued some time after the close of the war, so the entire proceeding respecting the taking of this property and the sale of it must have taken place long before the pardon was issued.

Mr. GREGG. It was.

Mr. McLAUGHLIN. So the matter of the time of issuing the pardon would cut no figure whatever as to the rights of this claimant.

Mr. GREGG. If I understand the point made by the gentleman, it is that the property was taken prior to the issuance of the pardon. Now, the Supreme Court, in passing upon that, say:

The restoration of the proceeds became the absolute right of the person pardoned. It was, in fact, promised for an equivalent. Pardon and restoration of political rights were in return for the oath and its fulfillment. To refuse it would be a breach of faith no less cruel and astonishing than to abandon the free people whom the Executive has promised to maintain in their freedom.

One of the decisions uses this language:

We have decided that the pardon closes the eyes of the courts to the offending acts, or, perhaps, more properly, furnishes conclusive evidence that they never existed as against the Government.

It restores him as though he had never committed any act of disloyalty.

Mr. DAVIS. Will the gentleman yield?

Mr. GREGG. I will.

Mr. DAVIS. I am not familiar with the law of 1863, which seems to be the basis and foundation in this whole proceeding. I would like to inquire of the gentleman if that law, after setting out the method of procedure in taking this property and selling it and placing the proceeds in the Treasury, continued further to say what should become of the proceeds after they were gathered into the Treasury?

Mr. GREGG. I will read the act authorizing the collection by the Secretary of the Treasury of all abandoned and captured property.

That act authorized the collection by the Secretary of the Treasury of all abandoned or captured property in the insurrectionary States except materials of war, and directed that this should be sold and the proceeds placed in the Treasury. It gave a right to any person whose property was taken under its provisions to present a claim to the Court of Claims for the return of the proceeds of that property in the Treasury.

It also contained a clause that he should prove ownership and that he had been loyal. When that came up before the Supreme Court the court said that the pardon restored his loyalty, and if the property had been sold and the proceeds put in the Treasury it was his.

Mr. DAVIS. But the law did not state what should become of the proceeds—there was no direct statement in the law as to what should become of the proceeds.

Mr. GREGG. No.

Mr. HOUSTON. Here is a statement by the Supreme Court. The court says that the Government constituted itself a trustee for those who were entitled or whom it should thereafter recognize as entitled to the proceeds.

Mr. McLAUGHLIN. Will the gentleman yield?

Mr. GREGG. Certainly.

Mr. McLAUGHLIN. Reading the report of the committee in relation to this case, I do not find any date as to when the cotton belonging to this man was taken. It may have been long before the passage of the act. Certainly if the cotton was taken before that act was passed the act could not apply to the seizure of that cotton. I do not know whether the cotton was seized under such circumstances as to make this act apply to it. The report of the committee does not give us any information. We do not know when the cotton was taken; we do not know whether the law they read applies to the case; and we do not know whether the decisions of the court apply to a case of this kind. It is evident from all that has been said and all that has been read that this cotton was seized in pursuance of law, was sold in pursuance of law, but we have not been told that the decisions and laws that have been read apply to it in any respect whatever.

Mr. GREGG. If the gentleman will excuse me, it does apply to it.

Mr. McLAUGHLIN. When was the cotton seized?

Mr. GREGG. After 1863.

Mr. McLAUGHLIN. There is no date given in the report.

Mr. GREGG. There is the report of the Court of Claims, if the gentleman will read it.

Mr. McLAUGHLIN. I have read what the committee sets out in its report.

Mr. HOUSTON. The report sets out the claim. The cotton was taken about the 4th of January, 1864, and the court sustains the finding. There is no question about the date in the finding.

Mr. McLAUGHLIN. What was the date of the passage of the act?

Mr. HOUSTON. In 1863.

Mr. McLAUGHLIN. The cotton was seized pursuant to that act.

Mr. GREGG. The Court of Claims finds that it was.

Mr. GOOD. Will the gentleman yield?

Mr. McLAUGHLIN. I yield.

Mr. GOOD. I simply rose to ask a question of the chairman of the committee. I notice at the top of page 2 of the report there is this statement, that in the case of Padelford against the United States the Supreme Court decided that that fund was a trust fund, and the effect of a pardon in compliance with its terms rendered the offender as innocent as if he had never committed the offense. The question I want to ask is whether or

not in this case the terms of the pardon were identical with the terms of the pardon in the Padelford case, and did the pardon in the Padelford case contain the same or a similar provision set out in clause 4 in the case wherein the recipient of the pardon waived any claim he might have against the Government?

Mr. GREGG. No general pardon required a waiver of claim against the Government. Only conditional pardon required the waiver of claim where the property had been legally sold under order of the court.

Mr. GOOD. Was this a special pardon?

Mr. GREGG. Yes; and after the general pardon.

Mr. GOOD. In all cases mentioned in the report there was no especial pardon and no provision in the pardon that the man should waive whatever claim he might have?

Mr. GREGG. There is nothing to show what the terms of the pardon were; at least I have nothing.

Mr. GOOD. It seems to me that if the committee bases its claim on the decision of the Supreme Court the terms of the pardon in both cases ought to be somewhat similar. I would like to know what the facts are.

Mr. GREGG. I will answer the gentleman by asking him whether, if it was after the general pardon, it does not come under the conditions of the different decisions that I have alluded to.

Mr. GOOD. I can see quite a difference. If in this case where there was a general pardon containing the provisions that the person pardoned should waive any claim he might have against the Government, that would be entirely different from any case where the pardon that did not require that waiver.

Mr. GREGG. The gentleman has the Padelford case here and he may find it.

Mr. McLAUGHLIN. Mr. Chairman, I reserve the balance of my time.

Mr. QUIN. Mr. Chairman, I can not conceive how any man who understands the facts of this case and the law would vote against this claimant Mr. Cheairs receiving pay for his cotton.

Mr. REILLY of Wisconsin. Mr. Chairman, will the gentleman yield?

Mr. QUIN. Certainly.

Mr. REILLY of Wisconsin. I would like to have the gentleman explain how it is that after 50 years this matter is still before Congress, if there is such a clear case of law and fact as is claimed?

Mr. QUIN. Mr. Chairman, I will explain that. In 1861 there was a war between the South and the North. That war lasted until 1865, when down here at Appomattox the South laid down its arms. The North was a brother, and a part of the South. This Union remained intact. The Southern States came back into the Union. During that war millions of dollars' worth of property, as my friend from Illinois [Mr. MANN] has said, was taken away from the people of the South. This Confederate soldier had back yonder on his plantation great droves of slaves that were as much his property under the law as his own money. He claims nothing for his slaves, and has never made any claim, but that same farmer had 50 bales of cotton lying back yonder and while that war was going on, on the 12th day of January, 1864, under an act passed by the Federal Government, that cotton was seized and sold. Deducting all of the expenses, the proceeds were placed over yonder in the Federal Treasury. That man, after the war, was pardoned for his offense against this Union when he took up arms for his native South and went out and fought for his fireside.

The Federal Government, through the greatest court in the world, said that this gentleman was entitled to be paid for his cotton, because of the fact that the President of the Federal Union had pardoned him for his disloyalty. On top of that we have the Court of Claims connected with this Government, that had passed on this identical claim, and all the facts, which says that this Confederate soldier, Mr. Cheairs, is entitled to the sum of $12,318.47, as the payment for his cotton, the net proceeds less the expense of selling it and transporting it to market, said net proceeds lying over here in the Federal Treasury of this Nation at this time. If this were in a court of equity, is there a chancellor in the United States that would say that this gentleman is not entitled to his pay? All civilized countries, even in the Orient, pay for the property that they confiscate during war. Is it possible that here in this Christian Republic, in the United States, where our Constitution has in it that we are entitled to liberty, freedom, and right, a Government will deprive its citizens of property, sell it, and then decline to pay the citizen for the actual net proceeds that the Government has to-day, holding without interest for 50 years? Is it possible that because this wrong has been perpetrating for 50 years, in this age of enlightenment, when it is presumed that we have no feeling against any section of the country, that we can not correct and right that wrong now? Is it possible that in this great Republic such a thing can be, when the tax is being borne by all of the people? Bear in mind that this Confederate soldier pays his taxes the same as any other citizen of this country, and he has the same right and is in duty bound by the same obligation as any other citizen to defend his country. This same man stood, after he was pardoned by the President of this Republic, in the same light as any Federal soldier stood. Is it honest and fair to say that because that man marched out under a banner and fought for his section of the country, and was then pardoned by the successful Army, by the Union itself, that he shall be deprived of his property, and for what? Who shall have that property? Can you take it and give it to John Smith or anyone else? It is yonder, according to the Court of Claims, in the Treasury, the property of Mr. Cheairs, and it is just as much his as any horse that he might have in his possession to-day.

Mr. McLAUGHLIN. Mr. Chairman, will the gentleman yield?

Mr. QUIN. Yes.

Mr. McLAUGHLIN. Will the gentleman explain why that condition contained in the soldier's pardon does not bar him now from making this claim?

Mr. QUIN. It does not bar him because the highest court in the land has decided in his favor, and the Court of Claims, a coordinate court of this Government, has decided that the Government owes this much to him, and a committee of Congress has brought in a report upon that verdict of the Court of Claims, a judgment, and has asked this body, the representatives of the people, to vote him his money. The judges of our country are presumed to be honest men. The Court of Claims is composed of men of discernment and honor. They passed on this man's case. It is simply now a perfunctory matter of Congress to appropriate the money to pay the judgment of the Court of Claims; and now shall this honorable body say that this claimant, this Confederate soldier, being deprived of his money for 50 long years, shall go down in his grave with the Federal Government, the flag that floats over him, owing him that debt? Can we, as the representatives of the people, defend our position in denying the judgment of a court? Can we, as representatives of the people, say that the Federal Government shall not pay the judgment of the courts of this country? Can we possibly be that partisan? I want to say that I am a Democrat, and that I am from the far Southland. I have the honor to represent the district in which Jefferson Davis, the President of the Confederacy, was reared. In my district he trotted around as a barefooted boy. He went to school down yonder in Wilkinson County; but I want to say that the people of my State, Mississippi, are as loyal to this Union as any man from Illinois is. We love our country. There is not a single State in this Union that will give a better pro rata of troops to go out and fight for this country to-day than the State of Mississippi. We had more than 10,000 men volunteer for services when we thought there was going to be a war with Mexico this year. When the Spanish War was on, Mississippi sent its quota, and my old law partner, who was a major in the Confederate army, went out in that war as a colonel of the First Mississippi Regiment.

Our people are loyal to this flag, and why should they be held down and deprived even of the verdict of a court by the Congress upon a partisan idea? I would vote for an honest claim in Maine, in Illinois, in New Hampshire, in Vermont, in Massachusetts, or anywhere else. The question of partisan feeling should not enter into our vote. The question that should come to the mind of every man when he goes to cast his vote on these bills should be, Is it honest, is it right, and is it just? Why should we say what part of the Union this ought to come from? Does it come from my district, does it come from my State? If I had to cast my vote here upon that kind of an idea I would resign my seat in Congress. If I had to cast my vote here as a partisan to deprive any citizen of this Union out of his rights, I would retire in humiliation before I would stand here as a pretended representative of the people. The people of America are honest people; they are just; they do not want a wrong done to any people. They do not ask Congress to do an injustice to any man in this Republic.

Mr. NORTON. Will the gentleman yield?

Mr. QUIN. I will.

Mr. NORTON. Does the gentleman think it is unjust for the Government to show a disapproval of disloyalty, or does the gentleman think it is the proper thing to put a prize upon loyalty.

Mr. QUIN. I do not know what the gentleman means by the question, but upon the question of disloyalty I want to say

that in our country, bound together in States, there was a question, sir, whether or not they had the right to secede. That question was fought out. It was won by the force of arms; not by the force of law, not by the force of right, but by the force of might. Then those States that had seceded from the Union came back into this Union, and through the organized power of this Union those people who were fighting against the flag were pardoned for their offense, and they are to-day and since they accepted the conditions of the Government under the pardon have been as loyal to this Republic's flag as any other citizen of any State that remained in the Union. And it is not a question of whether or not we are approving or disapproving of disloyalty. It is a question of paying an honest debt. All civilized nations, as I have said, have paid for the property that they have taken from a country when they invaded it, and why should the United States Government decline to pay for the property that it took, not for the purpose of destruction, but which it took and sold and the proceeds were put into the Treasury?

Mr. NORTON. Will the gentleman yield there?

Mr. QUIN. I will.

Mr. NORTON. The gentleman has made the statement several times that all civilized nations to-day compensated the enemy for property taken. That statement has been made by other gentlemen on this floor. I do not believe that that is the fact, that civilized nations at war to-day pay the enemy for property used by them in time of warfare against a nation, and this cotton in this case was certainly one of the best properties the South had to maintain its cause against the North. The gentleman is arguing from a premise that is entirely wrong when he states that all civilized nations to-day in warfare pay the enemy for property taken.

Mr. QUIN. I have great respect for the judgment and learning of my friend, but I want to say that the gentleman ought to go and read up on that proposition. If he can state in this House a single country on the face of this globe, except the United States, that has failed to pay for the property it confiscated and sold. then he is entitled to a chromo. This Government itself, when we invaded Mexico—and if the gentleman will investigate the records, he will see it is true—paid for the property we took in Mexico.

Mr. SLOAN. Will the gentleman yield?

Mr. QUIN. I will.

Mr. SLOAN. Has the German Empire paid one dollar to a single Frenchman for the property they took, used, or destroyed on their trip from the border to the capital of France in 1870 and 1871?

Mr. QUIN. I give the gentleman as my authority the Hon. THOMAS U. SISSON, of Mississippi, who says that is the case, and I believe he knows what he is talking about. I want to say, my friends, in connection with this case we have before us now, it is one part of this Union taking private property of citizens of another part of it, not for war purposes, but they simply sold it. We all know that cotton is one of the best products of the world; that 50 bales of cotton would be good to-day if it had been left lying under the gin or under a shed down yonder in the State of Tennessee; but we find that the Government itself, under act of law, sold this man's cotton. It is a question of honesty and right for the Government to pay him. He is asking for no interest, he knows he could not get it, but the proceeds of the sale of this cotton to-day have been lying in the Treasury since January 12, 1864. He is entitled to it, and how any man could vote against Mr. Cheairs receiving that money I can not understand. The property was taken away from the man simply because he belonged to one of the contending armies of this country; it was sold; and to say that he should not receive pay for it is beyond comprehension, and that in the face of this very identical case of a judgment by the Court of Claims, and still men can rise up on this floor and say he should not be paid.

So far as the South is concerned, the war is a thing of the past. That part of this Union is able to stand for itself now. It is always going to do the clean and right thing, and why should any other section of this country want to perpetuate a wrong against any man who comes from that section I can not conceive. Why should this Government, through its Congress, decline to pay a judgment of the Court of Claims to Mr. Cheairs simply because he was a citizen of the South who went out to fight for his flag. I ask you, gentlemen, in the name of judgment and right, in the name of honesty and fair dealing, to lay aside partisanship and sectional feeling, and vote for this claim; and for all such claims for cotton or any other property from Mississippi or any other State.

Mr. MANN. Mr. Chairman, will the gentleman yield for a question?

The CHAIRMAN. Will the gentleman from Mississippi [Mr. QUIN] yield to the gentleman from Illinois?

Mr. QUIN. I will.

Mr. MANN. Does the gentleman understand that the Court of Claims rendered judgment in this matter?

Mr. QUIN. Yes, sir. It is equivalent to a judgment. It was the finding of facts.

Mr. MANN. The gentleman is very far off.

Mr. QUIN. Mr. Chairman, I reserve the balance of my time.

Mr. MILLER. Mr. Chairman, I ask unanimous consent that I may extend my remarks in the RECORD.

The CHAIRMAN. The gentleman from Minnesota asks unanimous consent to extend his remarks in the RECORD. Is there objection?

There was no objection.

Mr. COX. Mr. Chairman, I want to get some information if I can get it, and I have no doubt I can, either from the chairman of the committee or the gentleman who has the bill in charge. Now, the report says this:

> None of the property of N. F. Cheairs was ever sold by the order, judgment, or decree of court under the confiscation laws of the United States.

I would like to know how that property was sold? Is there any record of it?

Mr. GREGG. It was sold under the captured and abandoned property act.

Mr. COX. What provision is made under the law for the sale of property taken under the abandoned and captured property act?

Mr. GREGG. I do not know all the details.

Mr. COX. Does the act set it down?

Mr. GREGG. The people abandoned the property. To keep that property and keep it from being stolen, Congress passed the act of 1863 which provided the Secretary of the Treasury should seize all of that property and sell it. There was no judgment of court or anything. He sold it, and the proceeds were turned into the Treasury.

Mr. COX. What was the mode of procedure of the sale of this property? Was it advertised? Was there any judgment or decree rendered by any court at all?

Mr. GREGG. No; there was no decree of court. He just sold it on the market. Whether he advertised it or not I do not know. But he sold it on the market.

Mr. COX. Then, as an illustration, if the Government under this act got possession of 100 bales of cotton down in Texas that had been abandoned—and I am now addressing myself to the property taken under that act—then, as the gentleman understands, the Secretary of the Treasury would simply put that on the market and sell it——

Mr. GREGG. At the market price.

Mr. COX. As though the Government was a producer of cotton?

Mr. GREGG. Yes, sir; that is the way it was done, as I understand.

Mr. COX. I presume that accounts, then, for the reason why this clause is inserted under the proclamation of Andrew Johnson, as follows:

> That the said N. F. Cheairs shall not by virtue of this warrant claim any property or the proceeds of any property that has been sold by order, judgment, or decree of any court under the confiscation laws of the United States.

Mr. GREGG. This was not a confiscation law.

Mr. COX. I understand. If it had been a confiscation act, then Mr. Cheairs, or any person occupying a similar position to his, could possibly get the benefit of this act.

Mr. GREGG. He waived that when he accepted the pardon. It would have been sold under the confiscation act, but he waived that, and then it was sold.

Mr. SLOAN. I would like to ask if this was not taken as abandoned property? I understand it has been so stated.

Mr. HOUSTON. I do not suppose anybody has made that statement. It was taken as captured property.

Mr. SLOAN. Not abandoned property?

Mr. HOUSTON. Oh, no. It was property belonging to Mr. Cheairs, left there in Tennessee, and the Federal Army came along and captured it and sold it under the laws as provided for by Congress.

Mr. SLOAN. It was seized as a military prize?

Mr. HOUSTON. I can not say about that. It was simply captured. The property was found there. The owner was away elsewhere, in the army, and they took charge of it, captured it, and sold it.

Mr. SLOAN. Why I ask the question is that the statute about which we are talking provides for taking abandoned property and also captured property.

Mr. HOUSTON. Yes, sir.

Mr. SLOAN. And I understand this was not taken from him as abandoned property?

Mr. HOUSTON. We have no way of knowing here just the details or facts concerning it, but I have no idea that this property was abandoned. It was on his premises there, and captured by the Federal authorities and sold.

Mr. SLOAN. Taken from him when and where found.

Mr. FOWLER. Will the gentleman yield to me a moment?

Mr. HOUSTON. Yes, sir.

Mr. FOWLER. I did not understand that the owner of the property lived in Mississippi at the time the property was taken. Is that true?

Mr. HOUSTON. I am not advised as to where his residence was.

Mr. FOWLER. I caught that from the speeches made on the floor, and I was asking for information.

Mr. HOUSTON. I have no knowledge that he was in Mississippi. In fact, I understand he was a resident of Tennessee.

Mr. FOWLER. Was the cotton grown in Tennessee?

Mr. HOUSTON. The cotton was grown, as I understand it, in Murray County, Tenn., on the farm of the claimant.

Mr. FOWLER. Was the claimant's cotton a portion of that cotton which was taken in 1863, 1864, and 1865, and held in common and sold and the fund reserved by the Government?

Mr. HOUSTON. It was cotton that was seized in 1864 under the captured-property act by the Federal Army. It was seized by the officers and sold in 1864 and the proceeds turned into the Treasury.

Mr. FOWLER. There is a case reported in the Ninety-second United States Reports regarding certain cotton that was captured during those three years that I have referred to, and after a portion of it was used for breastworks and things of that kind it was collected and held in common and sold, and the proceeds, as I understand from the reading of the decision, were probably held for the purpose of remunerating the owners after the Court of Claims had passed upon it.

The case went up to the Supreme Court. The Supreme Court affirmed that the findings of the lower court or the Court of Claims were correct. Now I am seeking information as to whether this particular case was on all fours with the case reported in the Sixty-second United States Reports, page 652.

Mr. HOUSTON. What is the name of that case?

Mr. FOWLER. It is the intermingled-cotton case.

Mr. HOUSTON. I am not able to answer that question. I am not familiar with the facts in that case at all.

Mr. FOWLER. It is the case of the United States against Raymond, assignee, and several others. If your case comes under the same circumstances as the case reported in this Supreme Court report, I would be very glad to know it. I am not familiar with the circumstances of the case except as stated in the report of the committee; but if you are familiar with this case in the Supreme Court—Ninety-second Supreme Court Reports—I would be very glad if you will tell me if your case is on all fours with this.

Mr. HOUSTON. I stated to the gentleman that I am not acquainted with the facts in that case. This case is reported by my colleague from Tennessee [Mr. PADGETT]; and as to the facts of this case, I regret that I can not give you information.

Mr. SLOAN. Mr. Chairman, I would like to ask the gentleman from Tennessee [Mr. HOUSTON] if he knows whether or not any other property had been seized by the Government of the United States belonging to this claimant?

Mr. HOUSTON. I have no knowledge as to that.

Mr. SLOAN. The reason I ask this question is this: This pardon, issued by President Johnson, was virtually issued in pursuance of the act of July 2, 1862, which provides—

> That the President is hereby authorized, at any time hereafter, by proclamation, to extend to persons who may have participated in the existing rebellion in any State or part thereof, pardon and amnesty, with such exceptions and for such time and on such conditions as he may deem expedient for the public welfare.

I note here in the report which is filed that there is a rather interesting condition attached to the granting of the pardon and in the form followed in the acceptance of the pardon. I assume that all that is insisted upon here is good faith; and if it is a fact that this is the only claim that Mr. Cheairs or his agents or assigns had against the Government, then he must have referred in this pardon to this particular claim; and if he did, absolute good faith would bind him and his heirs and executors, who stand in his stead, not to press this claim. Hence I think it is a matter for consideration and investigation as to whether or not this man Cheairs ever had any other claim.

Mr. HOUSTON. What is the clause there?

Mr. SLOAN. It is the fourth, which has been liberally discussed here. I assume and would assume that if there was no other claim, that was the claim that Cheairs had in mind when that pardon was written and when he accepted it.

Mr. MANN. Mr Chairman, I desire to address the committee a little further in answer to some of the propositions which have been made. When I addressed the committee before I had a very good audience. For some reason gentlemen have left. I desire to have somebody to talk to, and I therefore make the point of order that there is no quorum present.

The CHAIRMAN. The gentleman from Illinois [Mr. MANN] makes the point of order that there is no quorum present. The Chair will count. [After counting.] Fifty-nine gentlemen are present—not a quorum. The Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names:

Aiken	Eagle	Key, Ohio	Plumley
Ainey	Edmonds	Kiess, Pa.	Porter
Anthony	Elder	Kindel	Post
Aswell	Esch	Kinkead, N. J.	Powers
Austin	Estopinal	Kirkpatrick	Ragsdale
Baltz	Fairchild	Kitchin	Rainey
Barchfeld	Faison	Knowland, J. R.	Reilly, Conn.
Bartholdt	Farr	Konop	Riordan
Bartlett	Fields	Kreider	Rothermel
Beall, Tex.	Finley	Lafferty	Rubey
Bell, Ga.	Floyd, Ark.	Langham	Rupley
Brodbeck	Fordney	Langley	Sabath
Brown, N. Y.	Foster	Lazaro	Saunders
Browne, Wis.	Francis	Lee, Ga.	Scully
Browning	Frear	L'Engle	Seldomridge
Bruckner	French	Lenroot	Sells
Brumbaugh	Gard	Lever	Sherley
Bryan	Gardner	Lewis, Pa.	Sherwood
Buchanan, Ill.	George	Lindbergh	Shreve
Bulkley	Gerry	Lindquist	Slemp
Burke, Pa.	Gill	Linthicum	Smith, Md.
Burnett	Gillett	Loft	Smith, Minn.
Butler	Gittins	Logue	Smith, N. Y.
Byrnes, S. C.	Glass	McAndrews	Stafford
Calder	Goldfogle	McGillicuddy	Stanley
Callaway	Gorman	McGuire, Okla.	Steenerson
Campbell	Goulden	McKenzie	Stephens, Miss.
Cantor	Graham, Ill.	Madden	Stephens, Nebr.
Cantrill	Graham, Pa.	Mahan	Stevens, N. H.
Carew	Griest	Maher	Stout
Carlin	Griffin	Manahan	Stringer
Church	Guernsey	Martin	Switzer
Clancy	Hamill	Merritt	Ten Eyck
Clark, Fla.	Hamilton, Mich.	Miller	Thacher
Claypool	Hamilton, N. Y.	Moore	Thompson, Okla.
Collier	Hardwick	Morgan, La.	Townsend
Connelly, Kans.	Hart	Morin	Treadway
Connolly, Iowa	Hayes	Moss, W. Va.	Tribble
Conry	Henry	Mott	Underhill
Covington	Hensley	Murdock	Vare
Cramton	Hinds	Murray, Okla.	Vollmer
Crisp	Hobson	Neeley, Kans.	Volstead
Cullop	Hoxworth	Nelson	Walker
Dale	Hughes, Ga.	O'Brien	Wallin
Decker	Hughes, W. Va.	Oglesby	Walsh
Dickinson	Hulings	O'Hair	Watkins
Dies	Humphreys, Miss.	O'Leary	Weaver
Difenderfer	Johnson, Ky.	O'Shaunessy	Whaley
Dixon	Johnson, S. C.	Padgett	Whitacre
Dooling	Jones	Palmer	White
Doremus	Kahn	Parker	Willis
Driscoll	Keister	Patten, N. Y.	Wilson, Fla.
Drukker	Kelly, Pa.	Patton, Pa.	Wilson, N. Y.
Dunn	Kennedy, Conn.	Peters	Winslow
Dupré	Kennedy, R. I.	Peterson	Woodruff
Eagan	Kent	Platt	Woods

The committee accordingly rose; and the Speaker having resumed the chair, Mr. BARNHART, Chairman of the Committee of the Whole House, reported that that committee, having under consideration bills on the Private Calendar, found itself without a quorum; whereupon he caused the roll to be called, when 205 Members, a quorum, responded to their names, and he reported the names of the absentees to be printed in the Journal and RECORD.

Mr. BRYAN. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. BRYAN. Is it possible to get my name stricken from that list of absentees?

The SPEAKER. It is not.

Mr. BRYAN. Well, I am here, Mr. Speaker.

The SPEAKER. That does not make any difference now, because the gentleman was not here in time. [Laughter.]

The committee will resume its session.

Accordingly the House resolved itself into the Committee of the Whole House, with Mr. BARNHART in the chair, for the further consideration of bills on the Private Calendar.

Mr. MANN. Mr. Chairman, how much time have I remaining?

The CHAIRMAN. The gentleman from Illinois has 40 minutes.

Mr. MANN. Mr. Chairman, I think the gentleman from Texas [Mr. GREGG] misapprehended the purport of the argument which I made in opening the debate. The captured and abandoned cotton claims are one thing. In the law providing for the capture of cotton there was a method also provided for making a claim for the money realized for the sale of the cotton. My recollection is that the claimants have to prove loyalty. Now, the question here involved is whether the special or general pardon given to those who participated in the Confederate Army gives them the same status as loyal citizens for the recovery for the value of property taken away from them. That is practically the only question involved. That is the whole purport of the report of the committee in the case—that the claimant here, who was in the Confederate Army, has had that fact removed in contemplation of law by the pardon which was extended to him by President Johnson. But the pardon extended to him by President Johnson is no broader, and in fact not so broad as the pardon which has since been extended by the Government to all of those who participated in the Confederate Army; and if the claimant in this case can make his claim properly because his disloyalty has been set aside by reason of the pardon, then any citizen of the South who participated in the Confederate Army is no longer barred from making a claim by reason of disloyalty. When I use the term "disloyalty" I use it in the legal sense. So far as I am concerned I have no criticism against those who participated on the southern side of the war. The time for feeling on that subject has long since passed by. My father was in the Union Army. He came from Kentucky. I had numerous relatives in the Confederate Army. They were divided, family against family, in Kentucky. All of the bitterness of the war has passed away as far as I am concerned, but I do not see any reason which permits the gentlemen from the South, like my friend from Mississippi, to say "Oh, we are all brothers again. We have forgiven on both sides, but open your pocketbook and let me take what I want."

The forgiveness goes, but that is no reason for emptying the Federal Treasury. If we had to buy the friendly feeling of the southerner, it would not be worth having. So far as the results of the war are concerned, in the conduct of the armies in the field, the matter must be tested by the ordinary rules of warfare and the results of war, not by the desire to be friends now. The spirit of friendship does not require us to pay the claims which are not based upon justice, according to the rules of warfare.

My friend from Texas [Mr. GREGG] said he was not in favor of paying for any property destroyed by the Union Army in the Confederate States, and he laid down a wrong rule of law as to the liability of an army in an enemy's country. I do not know that I am authorized to have or express in any way an expert opinion on that subject, but I think that ordinarily when an army in an enemy's country takes property from noncombatants for the use of the army it pays for it, though not always, but it is under no legal obligation to those who are on the other side to pay for property taken from them. This case is one where the Union Army seized property belonging to a man in the Confederate Army. It seized it as an act of war. It had no other right to seize it, and in the legislation which authorized the seizure the United States did not provide that this claimant could ever recover the value of the property. But my friend from Texas [Mr. GREGG], chairman of the great Committee on War Claims, when he says that he and his committee are not in favor of payment of anything for the destruction of property, is slightly in error, because upon this calendar, waiting to be reached this afternoon, is a resolution to have the Court of Claims make a finding upon a claim for $33,450, on account of property belonging to one Joshua Nichols, captured and destroyed by the United States soldiers.

Mr. GREGG. Will the gentleman excuse me for just a moment?

Mr. MANN. Certainly.

Mr. GREGG. It is my purpose when that bill is reached to ask that it be laid on the table. I have it marked for that purpose—to be laid on the table.

Mr. MANN. I am glad that the argument which I have made on this subject has had some effect.

Mr. GREGG. The gentleman's argument did not have any effect. I was of that opinion before.

Mr. MANN. I notice that the resolution was reported from the Committee on War Claims, and there was no indication made to this effect until I discussed the matter some time ago; and now I would like to know what is going to be done with this case: On the same calendar, to be reached this afternoon, is another resolution to refer to the Court of Claims a claim of the trustees of Davenport Female College for injuries done the buildings and destroying the property of said institution by the Federal soldiers at the close of the late Civil War. That was an act of war.

There were recently reported from the Committee on War Claims some 20, 30, 40, or 50—I do not remember the number—of similar bills, which came up in such a manner that the only way to pass an omnibus resolution was to eliminate those claims, and I insisted that they should be eliminated. The resolution was then passed.

Mr. GREGG. Will the gentleman excuse me for just a moment?

Mr. MANN. Certainly.

Mr. GREGG. Where is that Davenport College case? I do not see it on the calendar.

Mr. MANN. All right; I will help the gentleman out. It is Private Calendar No. 237, House resolution 524, reported May 23, 1914.

Mr. GREGG. It is not a resolution to pay, but it is to refer the claim to the Court of Claims. It is not a bill to pay that amount.

Mr. MANN. Did I say that it was?

Mr. GREGG. Anyone who was not paying strict attention might infer that that was what the gentleman meant.

Mr. MANN. Everybody else in the House, except the gentleman from Texas, was paying strict attention.

Mr. GREGG. If the gentleman is correct, there is nothing in his argument.

Mr. MANN. That is about as near as my friend from Texas comes in an argument.

Mr. GREGG. I said that our committee was not in favor of paying for property destroyed, and in answer the gentleman from Illinois said that there was a bill on the calendar already providing for the payment; but it is not so. It only provides for referring the claim to the Court of Claims and let them decide whether or not there is any obligation on the part of the Government to pay it. The gentleman may object to the claimant having his day in court; that is about in line with the argument that the gentleman usually makes on this character of a bill. If a man has a claim that he thinks ought to be paid, I think he should be permitted to go into court and let the court say whether or not it is a just claim. Therein I differ with the gentleman from Illinois. I think the claimant ought to have a right to go into a court and let the court say whether or not it is a just claim.

Mr. MANN. Mr. Chairman, I have been extremely courteous to the gentleman from Texas and allowed him to interject all this stuff into my speech. I stated in the beginning that the resolution on the calendar was to refer to the Court of Claims the claim in that case.

Mr. GREGG. Did not the gentleman ask what was going to be done with it?

Mr. MANN. I did not ask what was going to be done with it. If the gentleman will not listen or willfully will not understand me I can not help it. I use the English language as carefully as I know how, more carefully, I think, than does the gentleman from Texas. When I make a statement the gentleman need not be alarmed but that it will be a correct statement. The mere fact that he does not listen to what I say will not affect the correctness of the statement which I make.

There is no reason for referring to the Court of Claims a claim which, on its face, ought not to be paid. If we should not pay for the destruction of property by the Union Army, then we ought not to refer to the Court of Claims a claim for the destruction of property. Is not that perfectly patent to anyone?

The fact is I asked the gentleman from Mississippi a while ago if he thought the Court of Claims had rendered a judgment in this case, and he said, "Well, equivalent to a judgment," or something of that kind. The Court of Claims in this class of cases renders no judgment or anything equivalent to a judgment. The committee here reported, and I believe it is still on the calendar, a bill to pay a man where the Court of Claims had rendered a finding, and the finding was that there was no legal or equitable claim on his behalf against the Government; having reported it, I suppose, on the theory that we should carry out a finding of the Court of Claims because, forsooth, the Court of Claims has found the amount involved. Therefore, they find in this case the amount involved, but the Court of Claims has not recommended the payment.

I would be willing, as far as I am concerned, to pass a law, under proper guaranty, permitting the Court of Claims to enter a judgment in any case where it thought it was proper to enter a judgment. But we now go through the farce very often of having bills to pay findings of the Court of Claims, and my friend from Mississippi [Mr. QUIN] talked at some length, and

so that we could hear him, about this matter having been before the Court of Claims and the Court of Claims having disposed of it. The Court of Claims makes a finding. They do not find that the man was loyal; they find that he was disloyal.

Now, what is the law in reference to these findings of the Court of Claims? It is almost impossible for the average Member of Congress, with the multitudinous duties which fall to him, to understand what is meant by reference to the Court of Claims or by findings of the Court of Claims.

The Court of Claims was created a good many years ago. Some time ago Congress found that there were so many of these private bills introduced and referred to committees of the House and the Senate where questions of fact were presented only from the claimant's side of the case that the committee could not very well dispose of them. Congress decided that any committee of the House might refer a private bill to the Court of Claims for a finding of facts. Any committee of the House which has a private bill before it, except a pension bill, can refer it to the Court of Claims for finding of facts. But the power of the Court of Claims is not quite as good toward the claimant if referred by a committee as it is if referred by the House or the Senate. Usually, therefore, claimants want these bills referred either by the House or by the Senate.

We carried this into the Judicial Code, section 151, which provides:

Whenever any bill, except for a pension, is pending in either House of Congress providing for the payment of a claim against the United States, legal or equitable, or for a grant, gift, or bounty to any person, the House in which such bill is pending may, for the investigation and determination of facts, refer the same to the Court of Claims, which shall proceed with the same in accordance with such rules as it may adopt, and report to such House the facts in the case and the amount, where the same can be liquidated, including any facts bearing upon the question whether there has been delay or laches in presenting such claim or applying for such grant, gift, or bounty, and any facts bearing upon the question whether the bar of any statute of limitation should be removed or which shall be claimed to excuse the claimant for not having resorted to any established legal remedy, together with such conclusions as shall be sufficient to inform Congress of the nature and character of the demand, either as a claim, legal or equitable, or as a gratuity against the United States, and the amount, if any, legally or equitably due from the United States to the claimant.

With the proviso that if the man establishes a claim upon which the Court of Claims is entitled to render judgment, the court may proceed to render judgment. But if the court renders judgment, the case never comes back to the Committee on Claims. Every judgment rendered against the United States is paid as a matter of course, without question, without debate, without controversy, in the deficiency appropriation bill.

Section 159 of this same law provides:

The claimant shall in all cases fully set forth in his petition the claim, the action thereon in Congress, or by any of the departments, if such action has been had, what persons are owners thereof or interested therein, when and upon what consideration such persons became so interested; that no assignment or transfer of said claim or of any part thereof or interest therein has been made except as stated in the petition; that said claimant is justly entitled to the amount therein claimed from the United States after allowing all just credits and offsets; that the claimant, and, where the claim has been assigned, the original and every prior owner thereof, if a citizen, has at all times borne true allegiance to the Government of the United States, and whether a citizen or not has not in any way voluntarily aided, abetted, or given encouragement to rebellion against the said Government, and that he believes the facts as stated in the said petition to be true—

And so forth. Section 160 provides that the Government may traverse the allegation of loyalty.

Section 161 provides:

Whenever it is material in any claim to ascertain whether any person did or did not give any aid or comfort to forces or government of the late Confederate States during the Civil War, the claimant asserting the loyalty of any such person to the United States during such Civil War shall be required to prove affirmatively that such person did, during said Civil War, consistently adhere to the United States and did give no aid or comfort to persons engaged in said Confederate service in said Civil War.

Mr. Chairman, of course we are not bound by that provision. We have the power to pay any claim that we please, but if we refer it to the Court of Claims under the existing law, the claimant is required to prove loyalty. It is now proposed to have Congress say that the man who was disloyal has the disloyalty wiped out if he has a pardon, and everyone has a pardon. The proposition involved in this bill is: You will have to prove loyalty, and in order to prove loyalty you must prove that you were in the Confederate Army and that there has been a general pardon granted since then, and that will constitute proof that you were never disloyal. They say that because they claim that the pardon wipes out the offense. No one can be disloyal. What a farce it would be! This legislation that I have just read to you, while it has been carried on the statute books for a number of years, was enacted in its present form only in 1911, long after a pardon had been granted to everyone who served in the Confederate Army. Does Congress mean nothing by these provisions? Is it the intention to say that because a pardon has been granted, therefore we not only will not punish but we will credit you with everything that you lost and pay it back to you out of the National Treasury?

The pardon was granted for the purpose of doing away with the disabilities in respect to citizenship and removing the prosecutions for disloyalty. The pardon was not granted for the purpose of making a claim against the National Government for property which the disloyal claimant owned and lost on account of the war. We do not refer to our southern brothers any longer as disloyal. There is no feeling about that, but I do not think that they ought to use the plea that we are brothers again in the Union, pardoned, in order to extract money from the Treasury. Of course the committee in reporting a bill like this does not intend to have it spread wide and far, but the claim agents who are behind these bills get up one that is as good as they can find for the purpose of setting a precedent, and Congress can not say to John Jones that it will pay him and to Jim Smith that it will not under the same circumstances pay him.

When one of the bills of this character passes, it establishes a precedent. We passed in this House, during this Congress, an omnibus claims bill carrying a thousand or two thousand claims, I do not remember the number, without controversy, without debate. Many of them upon the particular facts in the case were objectionable, but we have set a precedent which we thought had covered every item in that bill by previous action of the House. Gentlemen know that while I make no claims to being a good fighter, there are times occasionally when I fight one of these claims; but when Congress has established its position by making a precedent, I accept that as the conclusion of Congress. There are many claims in the omnibus war claims bill that I would not have permitted to pass by unanimous consent, if they were original propositions. Many of them I considered vicious and wrong, but where Congress has acted upon these claims I do not feel disposed, and nobody else does, to pay one man his claim because his Member of Congress is active or popular and then not pay the other man his claim because, forsooth, he may not be on speaking terms with his Member of Congress. Government must deal justly by all. Government is not a matter of favoritism, and ought not to be. Therefore I am opposed to making the precedent of paying claims upon the theory that either a special or a general pardon wipes out the needed proof of loyalty. If the claims amounted to only a small number, we might waive that and pay them, as we do sometimes with other claims, but the destruction of property, the taking of property, ran into the hundreds of millions of dollars. We can not justify ourselves, and neither can a succeeding Congress, in the payment of one claim, where the man was disloyal and has been pardoned, and not pay the rest of the claims under similar conditions.

Mr. COX. Mr. Chairman, will the gentleman yield?

Mr. MANN. Yes.

Mr. COX. For information, if I can make myself plain, under what is known as the captured and abandoned property act, has the Court of Claims power to render judgment, or under that act is it wholly confined to a finding of facts?

Mr. MANN. Under the captured and abandoned property act it has the power to render judgment.

Mr. COX. If it has the power to render judgment, did the law preclude the Court of Claims from rendering judgment in favor of one who had been disloyal to the Union?

Mr. MANN. Well, that is a matter of controversy, so much a matter of controversy I think it would. We have recently passed a law in the House to remove that claim as to property captured and abandoned after June 1, 1865.

Mr. COX. That is what is known as the Moon Act?

Mr. MANN. No; that is the Watkins bill. The statute in reference to captured and abandoned property is:

SEC. 162. The Court of Clams shall have jurisdiction to hear and determine the claims of those whose property was taken subsequent to June 1, 1865, under the provisions of the act of Congress approved March 12, 1863, entitled "An act to provide for the collection of abandoned property and for the prevention of frauds in insurrectionary districts within the United States," and acts amendatory thereof where the property so taken was sold and the net proceeds thereof were placed in the Treasury of the United States; and the Secretary of the Treasury shall return said net proceeds to the owners thereof, on the judgment of said court, and full jurisdiction is given to said court to adjudge said claims, any statutes of limitations to the contrary notwithstanding.

That does not apply in this case——

Mr. GREGG. Will the gentleman yield?

Mr. MANN. In just a minute—because this property was captured before June 1, 1865.

Mr. GREGG. I simply wanted to ask the gentleman what he read from at that moment, from the Judicial Code?

Mr. MANN. From section 162 of the judicial title. In the law, even in the general bill we passed some time ago gen-

tlemen did not make it go back of June 1, 1865. In the argument we had on that bill—and I opposed its passage—the claim was made that the war was practically though not officially over June 1, 1865, and hence any property taken after that date the Government ought to pay for, if it had sold the property and put the proceeds in the Treasury, and that it was not the intention to make that claim to property captured while the war was going on; but this one is not only to pay for property captured and sold while the war was in its most active operation, but it is an act to pay a man who was in the Confederate Army at the time the property was captured and sold.

Mr. COX. Let me see if I understand the gentleman. Does the gentleman say that the Watkins Act, passed by Congress some time ago——

Mr. MANN. The Watkins bill passed the House; it has not yet passed the Senate.

Mr. COX. What the House was endeavoring to do under the Watkins bill was only to make it apply to property taken after June 1, 1865.

Mr. MANN. It was to remove the disloyalty proposition on property taken after June 1, 1865.

Mr. COX. And this proposes to pay for property taken while the war was in progress?

Mr. MANN. It is to pay for property captured in 1864 at the very height of the war. Mr. Chairman, I reserve the balance of my time.

Mr. HOUSTON. Mr. Chairman, I call the attention of the committee to the point made by the gentleman from Michigan [Mr. McLAUGHLIN] in regard to the effect of this fourth clause of the pardon issued by President Johnson. The gentleman seems to entertain the idea that by this fourth clause the claimant in this case is estopped from claiming the money that was realized from the sale of these 50 bales of cotton. Now, if you will examine the clause, you will see that it says:

Fourth. That the said N. F. Cheairs shall not by virtue of this warrant claim any property or the proceeds of any property that has been sold by order, judgment, or decree of any court under the confiscation laws of the United States.

That is limited absolutely and alone to a judgment for property sold by an order or judgment of the court under the confiscation laws. There is no such thing as that in this case. The finding of the Court of Claims sets forth the fact that none of his property was sold under any such order of the court as that. Therefore that can not have any bearing on the case other than to show that the gentleman stands in court with all the rights that he had from the beginning because of the fact that by act of Congress the Government is made the trustee of the individual whose property was taken and sold under this captured and abandoned property act. It is insisted that this was for the benefit of loyal persons. Granted that is true and that loyalty must be established in order to realize and receive the benefits of that, yet we come upon this footing, that the claimant in this case stands before this Government to-day, stands before the public officials who held this money in trust for him, just in the attitude of a man who had been absolutely loyal to the Government from the beginning of his career practically until to-day. Congress saw proper in 1862 to authorize the President of the United States to grant a pardon upon certain conditions to certain persons, and the terms on which those pardons were to be granted were to be kept in good faith. The pardon was intended to accomplish a wise and salutary purpose; that is, that the President of the United States in the exercise of this beneficent power of pardon might reclaim citizens who had wandered into the fields of disloyalty; that by offering a pardon to them they should ground their arms of rebellion, so to speak, and come back into the Union, come back and accept the conditions that are offered by the terms of the pardon and become loyal and true citizens of the United States. Now, I say Congress did that, and it did it in good faith, and it expected when the President of the United States exercised that power he was acting in good faith with the people over whom he was exercising it.

It was not expected he would grant a pardon upon clear and specific terms and then that this Government should refuse to obey the terms of that pardon. That would be a breach of faith that would be disgraceful to this Government. It would be disgraceful to any Government to take advantage of a condition and thus break its own plighted words and the terms of its own plighted pardon.

Now, we have the language of the Supreme Court to show that by the act of the President of the United States this claimant was relieved of the disability of disloyalty. The terms of that pardon are full and specific, and for that very reason they mentioned the clause that is alluded to in the fourth section of the pardon, saying that this shall not apply to claims for which judgments have been rendered by a court in pursuance of the confiscation law. But the court goes on to say, further, this:

The act of March 12, 1863 (12 Stat. L., 820), to provide for the collection of abandoned and captured property in insurrectionary districts within the United States does not confiscate or in any case absolutely divest the property of the original owner, even though disloyal. By the seizure the Government constituted itself a trustee for those who were entitled or whom it should thereafter recognize as entitled.

Further:

By virtue of the act of 17th July, 1862, authorizing the President to offer pardon on such conditions as he might think advisable, and the proclamation of 8th December, 1863, which promised a restoration of all rights of property, except as to slaves, on condition that the prescribed oath be taken and kept inviolate, the persons who had faithfully accepted the conditions offered became entitled to the proceeds of their property thus paid into the Treasury on application within two years from the close of the war.

Now, Mr. Chairman, just a little further. I want to call your attention to the language of the opinion of the court, as follows:

And it is reasonable to infer that it was the purpose of Congress that the proceeds of the property for which the special provision of the act was made should go into the Treasury without change of ownership. Certainly such was the intention in respect to the property of loyal men. That the same intention prevailed in regard to the property of owners who, though then hostile, might subsequently become loyal appears probable from the circumstance that no provision is anywhere made for confiscation of it—

And so on.

Mr. NORTON. Will the gentleman yield there?

Mr. HOUSTON. I will.

Mr. NORTON. When, under the gentleman's theory, does the United States obtain title to property taken under the recapture act of March 12, 1863, belonging to men who were disloyal?

Mr. HOUSTON. Now, in this case I will say the act itself provided that these claims should be brought within two years.

Mr. NORTON. The claims of those who were disloyal?

Mr. HOUSTON. When the claim of loyalty should be set up, do you mean, or when the claim to the property should be set up?

Mr. NORTON. No. When does the United States obtain title to property taken under this act applying to disloyal parties?

Mr. HOUSTON. I am not prepared to answer that question.

Mr. NORTON. There is not any provision in the law, according to your theory, that the United States should ever obtain title.

Mr. HOUSTON. Well, this money is in the Public Treasury of the United States. The property has been sold and the money is placed there, and as representatives and trustees of the people and of this Government it is our duty, if a man makes out a case that justly entitles him to money in the Treasury, to do what is right by the man and by the people, and return that money to him.

Gentlemen say a good deal about the kindly feeling they have toward the South, and they deprecate any idea of a reference to any unkindness toward a man from the South for disloyalty. The talk beautifully upon that subject. This feeling of harmony, good fellowship, and good will is ever on their lips; but when it comes to putting it into practice it seems they halt and hesitate and do not make good the professions they claim with so much eloquence and fairness.

Now, this is a case that rests upon its merits. They do not come and ask for sympathy or anything of that kind, but they come and present to you a case here that, under the strict terms of the law and under the strict terms of the rulings of the Supreme Court, as we construe them, and, as we think, fairly and correctly, says the man is entitled to his money. We believe he is entitled to it according to the solemn dictum of the Supreme Court of the United States. The money is in the Treasury. It was taken from him. He has brought himself within the rules laid down by the law. He has complied with the terms, and I think he is entitled to this money. So I hope this House will pass the bill.

Mr. McLAUGHLIN. Mr. Chairman, the gentleman who has just spoken says that the fourth clause of the pardon issued to this claimant does not apply to this case and does not preclude him from making his claim, because it says that he "shall make no claim for the proceeds of property that has been sold by the order, judgment, or decree of any court under the confiscation law." He says that the finding of the Court of Claims expressly says that this property was not taken or sold under the confiscation laws. I have a copy of the findings of the Court of Claims. It is Senate Document No. 148, Fifty-ninth Congress, second session, and it contains no such statement. The Court of Claims makes no finding on that point. It expresses no opinion on it and no opinion upon any other question, as far as the merits of this claim are concerned. It is a finding of fact by the court, and, as we all know, the Court of Claims can only

make a finding of fact. It can not pass upon the merits. It can express no opinion as to whether or not a claimant is making a proper or meritorious claim. The finding is very brief. It simply says that "this man was in rebellion against the Government; that he was an officer in the rebel army; that he was taken prisoner at the surrender of Fort Donelson; was exchanged and is now within the rebel lines, and I am informed is now an agent of some kind for purchasing cattle for the use of the rebel army. Is reported to be again a prisoner."

It tells of the seizure of cotton belonging to this man and of its sale. It does not say under what proceedings, but evidently under proper proceedings recognized by law; that the law that controls such sales regulated the disposition to be made of the money arising from the sale.

In view of this finding by the Court of Claims I insist that this seizure and sale were as if made under the law providing for confiscation of the property. And I wish to call the attention of the committee to another matter, and that is, that this cotton was seized on January 4, 1864, as I remember the date, and a special pardon by the President was not issued until September, 1865, as I remember that date. It is not to be presumed that the President was not informed as to all the facts in this man's case. He was giving special consideration to this man's case. He found some special reasons for giving him a pardon, and a special pardon was issued to him.

And I repeat that it is not to be presumed that the President was not in possession of all the facts relating to this man's conduct, in relation to his property, and in relation to the seizure and sale of it, under the law regulating proceedings of that kind. Whatever other law was on the books relating to the confiscation of property and the disposition of it at that time, it does not appear from any record that this man was ever haled into court under that law, or that his property ever was seized under the law. But his property had been seized under some law. There had been a regular and orderly procedure by officers acting under the law. They had seized this property and sold it. The President knew of it, and on condition that the pardon should be issued, he stated, as set forth in the pardon, that this man should never make any claim against the Government for property sold under decree of court, under a confiscation law; practically saying that he should never make any claim against the Government on account of the property that theretofore had been taken from him and sold.

I insist, Mr. Chairman, that this fourth condition of the pardon does apply to him in this case, and it precludes him altogether from making a claim such as is made in this bill in his behalf.

This cotton was seized on the 4th of January, 1864. The finding of the Court of Claims says there was no claim of any kind made to this Government or to any of its officers by this man or on his behalf until the claimant appeared and filed his petition in the Court of Claims on May 20, 1904. Forty years after the cotton had been taken he appears or somebody else appears in his behalf. Very well might the gentleman from Wisconsin [Mr. REILLY] ask, "Why is it that after the lapse of 50 years this claim should now be brought to Congress in this way" when all the facts and circumstances relating to the case are so hazy and it is so difficult to get at the real status of the matter?

I want to call the attention of this committee to the fact that this claimant desires to be repaid for his cotton at the price of nearly 60 cents a pound—five times the price or value of cotton at the present time.

Mr. GREGG. Mr. Chairman, will the gentleman excuse me for a moment if I interrupt him?

Mr. McLAUGHLIN. In a minute. I will yield the floor altogether in a minute.

Mr. GREGG. Very well.

Mr. McLAUGHLIN. It seems to me, Mr. Chairman, that this claim is altogether without merit. I indorse heartily what the gentleman from Illinois [Mr. MANN] says, that it is impossible that the Supreme Court, in its decision, passing on the matter of pardons and the effect of them, could have intended to nullify the provisions of all these laws, which provide that a claimant, in order to establish a claim and lay a foundation for a bill for his relief, shall show that he was loyal to the Union at the time his property was taken.

Mr. COX. Mr. Chairman, will the gentleman yield?

Mr. McLAUGHLIN. I say it is impossible that the Supreme Court should have intended any such construction.

Mr. COX. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from Michigan yield to the gentleman from Indiana?

Mr. McLAUGHLIN. The gentleman from Texas [Mr. GREGG] asked me to yield first.

Mr. GREGG. The gentleman mentioned the fact that the claimant was asking for payment for his cotton at the rate of 60 cents a pound?

Mr. McLAUGHLIN. Yes; 60 cents a pound.

Mr. GREGG. The gentleman may not have noticed it, but what he is asking for is the amount that the Government got for it, after deducting all expenses, and that is the net amount that was paid into the Treasury.

Mr. McLAUGHLIN. That does not at all change or influence the statement I made a moment ago, that claimant, or some one in his behalf—his heirs, or his children, or his grandchildren, or some one possibly who has no interest whatever in him—is asking pay for the cotton taken at the rate of 60 cents a pound.

Now I yield to the gentleman from Indiana [Mr. COX].

Mr. COX. The gentleman from Texas [Mr. GREGG] asked the same question that I wanted to ask.

Mr. GREGG. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from Michigan yield to the gentleman from Texas?

Mr. McLAUGHLIN. Yes; I yield.

Mr. GREGG. I thought the gentleman had given up the floor.

Mr. McLAUGHLIN. I reserve the balance of my time, Mr. Chairman.

Mr. GREGG. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. BARNHART, Chairman of the Committee of the Whole House, reported that that committee had had under consideration bills on the Private Calendar, and particularly the bill (H. R. 8696) for the relief of Nathaniel F. Cheairs, and had come to no resolution thereon.

Mr. GREGG. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House for the further consideration of the bill H. R. 8696, and that the debate be limited to two minutes.

Mr. MANN. Those are two separate motions. I make the point of order, Mr. Speaker, that a Member can not do that in one motion. I make the point of order that that motion as one motion is not in order.

The SPEAKER. The Chair thinks that the gentleman from Illinois is correct.

Mr. MANN. There is no doubt about that.

The SPEAKER. The gentleman from Texas [Mr. GREGG] moves in the first instance that the House resolve itself into Committee of the Whole House for the further consideration of the bill H. R. 8696, and, pending that, he moves that general debate be limited to two minutes.

Mr. MANN. I move to amend the last motion by making it two hours.

The SPEAKER. The gentleman from Illinois [Mr. MANN] moves to amend the last motion by making it two hours. The question is on agreeing to the motion to amend.

The question was taken, and the Speaker announced that the noes seemed to have it.

Mr. MANN. Mr. Speaker, I ask for a division.

The SPEAKER. A division is demanded. Those in favor of the motion of the gentleman from Illinois will rise and stand until they are counted. [After counting.] Eighteen gentlemen have risen in the affirmative. Those opposed will rise and stand until they are counted. [After counting.] Twenty-three gentlemen have risen in the negative.

Mr. MANN. I make the point of order, Mr. Speaker, that there is no quorum present on this vote.

The SPEAKER. On this vote the ayes are 18 and the noes are 23. The gentleman from Illinois makes the point of order that there is no quorum present on this vote.

Mr. GREGG. Mr. Speaker, I move a call of the House.

The SPEAKER. The gentleman does not have to do that. The Doorkeeper will close the doors, the Sergeant at Arms will notify the absentees, and the Clerk will call the roll. Those who favor the motion to amend made by the gentleman from Illinois [Mr. MANN] will, when their names are called, answer "yea," those opposed will answer "nay."

The question was taken; and there were—yeas 58, nays 153, answered "present" 7, not voting 214, as follows:

YEAS—58.

Anderson	Danforth	Hawley	La Follette
Avis	Davis	Helgesen	McLaughlin
Barton	Dillon	Hinebaugh	MacDonald
Britten	Fess	Howell	Mann
Burke, S. Dak.	French	Humphrey, Wash.	Mapes
Cary	Good	Johnson, Utah	Miller
Chandler, N. Y.	Green, Iowa	Johnson, Wash.	Mondell
Cooper	Greene, Mass.	Kelley, Mich.	Morgan, Okla.
Copley	Greene, Vt.	Kennedy, Iowa	Norton
Curry	Haugen	Kinkaid, Nebr.	Paige, Mass.

Roberts, Nev.	Smith, Idaho	Stevens, Minn.	Volstead
Rogers	Smith, J. M. C.	Sutherland	Walters
Scott	Smith, Minn.	Temple	Young, N. Dak.
Sinnott	Smith, Saml. W.	Thomson, Ill.	
Sloan	Stephens, Cal.	Towner	

NAYS—153.

Abercrombie	Davenport	Hull	Rothermel
Adair	Deitrick	Humphreys, Miss.	Rouse
Adamson	Dent	Igoe	Rucker
Alexander	Dershem	Jacoway	Russell
Allen	Donovan	Johnson, Ky.	Saunders
Ansberry	Doolittle	Keating	Seldomridge
Ashbrook	Doughton	Kennedy, Conn.	Shackleford
Bailey	Edwards	Kettner	Sims
Baker	Evans	Korbly	Sisson
Barkley	Falconer	Lee, Pa.	Slayden
Barnhart	Fergusson	Lesher	Small
Bathrick	Ferris	Lever	Smith, Md.
Beakes	FitzHenry	Levy	Smith, Tex.
Bell, Cal.	Flood, Va.	Lewis, Md.	Sparkman
Blackmon	Floyd, Ark.	Lieb	Stedman
Booher	Fowler	Lloyd	Stevens, N. H.
Borchers	Gallagher	Lobeck	Stone
Borland	Garner	Lonergan	Stout
Bowdle	Garrett, Tenn.	McCoy	Sumners
Brodbeck	Gilmore	McKellar	Taggart
Buchanan, Tex.	Godwin, N. C.	Maguire, Nebr.	Talcott, N. Y.
Burgess	Goeke	Mitchell	Tavenner
Burke, Wis.	Goodwin, Ark.	Montague	Taylor, Ark.
Burnett	Gordon	Moon	Taylor, Colo.
Byrns, Tenn.	Gray	Morrison	Thomas
Candler, Miss.	Gregg	Moss, Ind.	Underwood
Cantrill	Gudger	Mulkey	Vaughan
Caraway	Hamlin	Neely, W. Va.	Watson
Carr	Hammond	Nolan, J. I.	Webb
Carter	Hardy	Oldfield	Whitacre
Casey	Harris	Page, N. C.	Williams
Clark, Fla.	Harrison	Park	Wilson, Fla.
Claypool	Hay	Phelan	Wingo
Cline	Hayden	Quin	Witherspoon
Coady	Heflin	Raker	Young, Tex.
Connelly, Kans.	Helm	Rauch	The Speaker
Cox	Hill	Rayburn	
Crosser	Holland	Reed	
Cullop	Houston	Reilly, Wis.	

ANSWERED "PRESENT"—7.

Barchfeld	Clancy	Payne	Taylor, Ala.
Bryan	McClellan	Stephens, Tex.	

NOT VOTING—214.

Aiken	Estopinal	Kindel	Plumley
Ainey	Fairchild	Kinkead, N. J.	Porter
Anthony	Faison	Kirkpatrick	Post
Aswell	Farr	Kitchin	Pou
Austin	Fields	Knowland, J. R.	Powers
Baltz	Finley	Konop	Prouty
Bartholdt	Fitzgerald	Kreider	Ragsdale
Bartlett	Fordney	Lafferty	Rainey
Beall, Tex.	Foster	Langham	Reilly, Conn.
Bell, Ga.	Francis	Langley	Riordan
Brockson	Frear	Lazaro	Roberts, Mass.
Broussard	Gallivan	Lee, Ga.	Rubey
Brown, N. Y.	Gard	L'Engle	Rupley
Brown, W. Va.	Gardner	Lenroot	Sabath
Browne, Wis.	Garrett, Tex.	Lewis, Pa.	Scully
Browning	George	Lindbergh	Sells
Bruckner	Gerry	Lindquist	Sherley
Brumbaugh	Gill	Linthicum	Sherwood
Buchanan, Ill.	Gillett	Loft	Shreve
Bulkley	Gittins	Logue	Slemp
Burke, Pa.	Glass	McAndrews	Smith, N. Y.
Butler	Goldfogle	McGillicuddy	Stafford
Byrnes, S. C.	Gorman	McGuire, Okla.	Stanley
Calder	Goulden	McKenzie	Steenerson
Callaway	Graham, Ill.	Madden	Stephens, Miss.
Campbell	Graham, Pa.	Mahan	Stephens, Nebr.
Cantor	Griest	Maher	Stringer
Carew	Griffin	Manahan	Switzer
Carlin	Guernsey	Martin	Talbott, Md.
Church	Hamill	Merritt	Taylor, N. Y.
Collier	Hamilton, Mich.	Metz	Ten Eyck
Connolly, Iowa	Hamilton, N. Y.	Moore	Thacher
Conry	Hardwick	Morgan, La.	Thompson, Okla.
Covington	Hart	Morin	Townsend
Cramton	Hayes	Moss, W. Va.	Treadway
Crisp	Helvering	Mott	Tribble
Dale	Henry	Murdock	Tuttle
Decker	Hensley	Murray, Mass.	Underhill
Dickinson	Hinds	Murray, Okla.	Vare
Dies	Hobson	Neeley, Kans.	Vollmer
Difenderfer	Howard	Nelson	Walker
Dixon	Hoxworth	O'Brien	Wallin
Donohoe	Hughes, Ga.	Oglesby	Walsh
Dooling	Hughes, W. Va.	O'Hair	Watkins
Doremus	Hulings	O'Leary	Weaver
Driscoll	Johnson, S. C.	O'Shaunessy	Whaley
Drukker	Jones	Padgett	White
Dunn	Kahn	Palmer	Willis
Dupré	Keister	Parker	Wilson, N. Y.
Eagan	Kelly, Pa.	Patten, N. Y.	Winslow
Eagle	Kennedy, R. I.	Patton, Pa.	Woodruff
Edmonds	Kent	Peters	Woods
Elder	Key, Ohio	Peterson	
Esch	Kiess, Pa.	Platt	

So the amendment of Mr. MANN was rejected.

The Clerk announced the following pairs:

For the session:

Mr. METZ with Mr. WALLIN.

Mr. GLASS with Mr. SLEMP.

Mr. SCULLY with Mr. BROWNING.

Mr. BARTLETT with Mr. BUTLER.

Mr. TAYLOR of Alabama with Mr. HUGHES of West Virginia.

Until further notice:

Mr. CLANCY with Mr. HAMILTON of New York.

Mr. STEPHENS of Texas with Mr. BARTHOLDT.

Mr. CHURCH with Mr. MCGUIRE of Oklahoma.

Mr. CALLAWAY with Mr. WILLIS.

Mr. CANTRILL with Mr. GRIEST.

Mr. GRAHAM of Illinois with Mr. PATTON of Pennsylvania.

Mr. LEE of Georgia with Mr. MADDEN.

Mr. STEPHENS of Mississippi with Mr. TREADWAY.

Mr. RIORDAN with Mr. POWERS.

Mr. SABATH with Mr. SWITZER.

Mr. MCGILLICUDDY with Mr. GUERNSEY.

Mr. UNDERHILL with Mr. STEENERSON.

Mr. HARDWICK with Mr. J. R. KNOWLAND.

Mr. BYRNS of Tennessee with Mr. BARCHFELD.

Mr. FIELDS with Mr. LANGLEY.

Mr. STEPHENS of Nebraska with Mr. LEWIS of Pennsylvania.

Mr. LAZARO with Mr. PARKER.

Mr. DALE with Mr. MARTIN.

Mr. MORGAN of Louisiana with Mr. LINDQUIST.

Mr. BELL of Georgia with Mr. CALDER.

Mr. ESTOPINAL with Mr. FREAR.

Mr. PADGETT with Mr. MORIN.

Mr. DUPRÉ with Mr. GILLETT.

Mr. FITZGERALD with Mr. MOORE.

Mr. WHALEY with Mr. WOODRUFF.

Mr. SHERLEY with Mr. PORTER.

Mr. WALKER with Mr. VARE.

Mr. ASWELL with Mr. AINEY.

Mr. ELDER with Mr. WINSLOW.

Mr. DICKINSON with Mr. GRAHAM of Pennsylvania.

Mr. PETERSON with Mr. PETERS.

Mr. SHERWOOD with Mr. MOTT.

Mr. HUGHES of Georgia with Mr. MERRITT.

Mr. AIKEN with Mr. ANTHONY.

Mr. BROUSSARD with Mr. AUSTIN.

Mr. BRUCKNER with Mr. BROWNE of Wisconsin.

Mr. BYRNES of South Carolina with Mr. CAMPBELL.

Mr. BUCHANAN of Illinois with Mr. BURKE of Pennsylvania.

Mr. CARLIN with Mr. CRAMTON.

Mr. COLLIER with Mr. DUNN.

Mr. DECKER with Mr. DRUKKER.

Mr. DIFENDERFER with Mr. EDMONDS.

Mr. DIXON with Mr. ESCH.

Mr. DOREMUS with Mr. FAIRCHILD.

Mr. FAISON with Mr. FARR.

Mr. FINLEY with Mr. HAMILTON of Michigan.

Mr. FOSTER with Mr. FORDNEY.

Mr. HENRY with Mr. HINDS.

Mr. HOWARD with Mr. HAYES.

Mr. JOHNSON of South Carolina with Mr. HULINGS.

Mr. KITCHIN with Mr. KAHN.

Mr. KINKEAD of New Jersey with Mr. KEISTER.

Mr. PALMER with Mr. LANGHAM.

Mr. POU with Mr. KENNEDY of Rhode Island.

Mr. RAGSDALE with Mr. KELLY of Pennsylvania.

Mr. RAINEY with Mr. KIESS of Pennsylvania.

Mr. RUBEY with Mr. KREIDER.

Mr. TALBOTT of Maryland with Mr. MCKENZIE.

Mr. THACHER with Mr. LAFFERTY.

Mr. TOWNSEND with Mr. MANAHAN.

Mr. TRIBBLE with Mr. MOSS of West Virginia.

Mr. TUTTLE with Mr. NELSON.

Mr. WATKINS with Mr. VARE.

Mr. GOULDEN with Mr. WOODS.

Mr. KEY of Ohio with Mr. PLATT.

Mr. BROWN of West Virginia with Mr. PLUMLEY.

Mr. PATTEN of New York with Mr. ROBERTS of Massachusetts.

Mr. WILSON of New York with Mr. RUPLEY.

Mr. BROWN of New York with Mr. SELLS.

Mr. HENSLEY with Mr. SHREVE.

Mr. SLOAN. Mr. Speaker, a parliamentary inquiry.

The SPEAKER pro tempore (Mr. RAKER). The gentleman will state it.

Mr. SLOAN. I understood that this was a call of the House. There seems to be a less number here now than when the call began. I would like to inquire if this procedure is what might be called "watchful waiting"?

The SPEAKER pro tempore. That is not a parliamentary inquiry.

The SPEAKER resumed the chair.

Mr. BARNHART. Mr. Speaker, would a motion to adjourn be in order?

The SPEAKER. It is in order if seconded by a majority of those present.

Mr. BARNHART. Mr. Speaker, I move that the House do now adjourn.

The SPEAKER. The gentleman from Indiana moves that the House do now adjourn. All those in favor of seconding the motion will rise. Twenty Members have risen. The Chair will count the number present. [After counting.] Forty-three Members present, and 20 is not sufficient to second the motion. The Clerk will call my name.

The Clerk called the name of Mr. Speaker CLARK, and he answered "no" as above recorded.

The result of the vote was then announced as above recorded.

The Doorkeeper was directed to open the doors.

Mr. GREGG. Mr. Speaker, I move the previous question on my motion.

The SPEAKER. The gentleman from Texas moves the previous question on his motion to limit debate to two minutes.

The question was taken; and on a division (demanded by Mr. MANN) there were 37 ayes and 15 noes.

Mr. MANN. I ask for the yeas and nays.

The SPEAKER. The gentleman from Illinois demands the yeas and nays. All those in favor of taking the yeas and nays will rise. [After counting.] Fourteen Members have risen. Those opposed will rise. [After counting.] Forty-four Members have risen in the negative, and the yeas and nays are ordered.

ACKNOWLEDGMENT BY THE PRESIDENT.

The SPEAKER laid before the House the following communication:

The President and the members of his family greatly appreciate your gift of flowers and wish to express their sincere gratitude for your sympathy.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Carr, one of its clerks, announced that the Senate had passed bill of the following title, in which the concurrence of the House of Representatives was requested:

S. 6357. An act to authorize the establishment of a bureau of war-risk insurance in the Treasury Department.

ADJOURNMENT.

Mr. GREGG. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 12 minutes p. m.) the House adjourned until to-morrow, Saturday, August 22, 1914, at 12 o'clock noon.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII,

Mr. BARKLEY, from the Committee on Interstate and Foreign Commerce, to which was referred the bill (H. R. 17168) to authorize the North Alabama Traction Co., its successors and assigns, to construct, maintain, and operate a bridge across the Tennessee River at Decatur, Ala., reported the same without amendment, accompanied by a report (No. 1100), which said bill and report were referred to the House Calendar.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. FALCONER: A bill (H. R. 18479) to provide the Federal aid necessary to demonstrate the practical value of the amendments to the denatured-alcohol laws of the act of October 3, 1913; to the Committee on Agriculture.

By Mr. KENNEDY of Connecticut: Joint resolution (H. J. Res. 325) authorizing the Secretary of Commerce to investigate the cause or causes of the advances in the price of foodstuffs; to the Committee on Interstate and Foreign Commerce.

By Mr. NORTON: Joint resolution (H. J. Res. 326) authorizing the Secretary of the Treasury to make advances of currency upon notes secured by warehouse certificates issued upon wheat and corn, and for other purposes; to the Committee on Banking and Currency.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ADAIR: A bill (H. R. 18480) granting an increase of pension to Jonathan R. Downing; to the Committee on Invalid Pensions.

By Mr. BURKE of South Dakota: A bill (H. R. 18481) for the relief of Zelma Rush; to the Committee on Claims.

By Mr. CANTRILL: A bill (H. R. 18482) for the relief of the legal representatives of John Dougherty; to the Committee on War Claims.

By Mr. GORDON: A bill (H. R. 18483) for the relief of Thomas Gallagher; to the Committee on Military Affairs.

By Mr. GRAY: A bill (H. R. 18484) granting an increase of pension to Sarah V. Howren; to the Committee on Invalid Pensions.

By Mr. KENNEDY of Connecticut: A bill (H. R. 18485) granting a pension to Ellen Dibble; to the Committee on Invalid Pensions.

By Mr. KEY of Ohio: A bill (H. R. 18486) granting a pension to Eliza Longacre; to the Committee on Invalid Pensions.

By Mr. MILLER: A bill (H. R. 18487) granting a pension to Marie Johnson; to the Committee on Invalid Pensions.

By Mr. PROUTY: A bill (H. R. 18488) granting an increase of pension to John W. Moon; to the Committee on Invalid Pensions.

By Mr. RAUCH: A bill (H. R. 18489) for the relief of Woodell A. Pickering; to the Committee on Naval Affairs.

By Mr. SLAYDEN: A bill (H. R. 18490) granting a pension to Jennie Webber; to the Committee on Invalid Pensions.

By Mr. KELLEY of Michigan: Joint resolution (H. J. Res. 327) to correct error in H. R. 12045; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By the SPEAKER (by request): Petition of Chamber of Commerce of Seattle, Wash., relative to building up United States merchant marine; to the Committee on the Merchant Marine and Fisheries.

Also (by request): Petition of Wharton Barker, of Philadelphia, Pa., relative to banking and currency law; to the Committee on Banking and Currency.

By Mr. BAILEY: Petition of Blair County National Bank, of Tyrone, Pa., relative to granting further advances to all railroads; to the Committee on Interstate and Foreign Commerce.

By Mr. BELL of California: Petitions of Mrs. S. E. Sigler and sundry citizens of Los Angeles, Cal., favoring national prohibition; to the Committee on Rules.

Also, petition of Women's Home Missionary Society of Pasadena and Los Angeles, Cal., relative to running railroad tracks in front of Sibley Hospital and Rust Hall, Washington, D. C.; to the Committee on the District of Columbia.

By Mr. GRAY: Petition of Arthur C. Johnson and Lucy A. Gilbert, clerks Dublin quarterly meeting of the Religious Society of Friends, of Wayne County, Ind., favoring national prohibition; to the Committee on Rules.

Also, petition of 39 citizens of Richmond, Ind., protesting against constitutional amendment for national prohibition; to the Committee on Rules.

Also, petition of Indiana Yearly Meeting Christian Endeavor Union, favoring national prohibition; to the Committee on Rules.

By Mr. GREEN of Iowa: Petition of 125 people of Fontanelle, Iowa, for national constitutional prohibition amendment; to the Committee on the Judiciary.

By Mr. MERRITT: Petition of B. B. Stoots, jr., Thomas De Gruchy, B. A. Hall, Frank K. Fish, Frank Stickney, S. W. Crommond, Mrs. S. W. Crommond, George A. Young, Jesse B. Snow, Mary S. Snow, Mary L. Wood, Florence B. Rickert, Leona M. Benedict, Mildred Sweat, Mildred E. Yale, Florence M. Ives, Emma H. Clark, Ata Pinchin, Mrs. R. E. Hill, Mrs. E. C. Benedict, Wayne B. Simpkin, Mrs. W. A. E. Cummings, Mrs. M. B. Abbott, May De Gruchy, Walter Smith, Mrs. A. B. Adkins, Daniel Lee, Sherry McCaughin, Nyles Eaton, Herbert Clark, Roland Blakely, Mrs. Roland Blakely, Mrs. C. F. Warner, J. F. McCaughin, C. G. West, and Mrs. A. G. Brockney, all of Ticonderoga, N. Y., favoring national prohibition; to the Committee on Rules.

By Mr. METZ: Petitions of sundry citizens of Kings County, N. Y., favoring strict neutrality; to the Committee on Foreign Affairs.

By Mr. MORRISON: Petitions of 140 citizens, mostly of Zionsville, Ind., relative to due credit to Dr. Cook for his polar efforts; to the Committee on Naval Affairs.

By Mr. RAUCH: Petitions of F. I. King, Sarah C. Haupt and others, of Wabash County; Harriet Houser, Mary Flanigan and others, of Logansport; J. W. Brown and Emma R. Halloway and others, of North Manchester; Florence Stevens, Bessie L. McKinney, and others, of Wabash County; Mary B. Cox, Lyda J. Wilhelm, and others, of Huntington, all in the State of Indiana, urging Federal legislation for woman suffrage; to the Committee on the Judiciary.

Also, petition of citizens of Huntington, Ind., relative to due credit to Dr. F. A. Cook for his polar efforts; to the Committee on Naval Affairs.

By Mr. SAUNDERS: Petitions of sundry citizens of the State of Virginia, relative to rural credits; to the Committee on Banking and Currency.

By Mr. WATSON: Petitions of sundry citizens of Dinwiddie, Lunenburg, Brunswick, Surry, Prince Edward, Mecklenburg, Nottoway Counties, Va., relative to rural credits; to the Committee on Banking and Currency.

SENATE.

SATURDAY, *August 22, 1914.*

The Senate met at 11 o'clock a. m.

Rev. J. L. Kibler, D. D., of the city of Washington, offered the following prayer:

O God our heavenly Father, we turn again to Thee for Thy guidance. We are entering upon a new and strange epoch in the world's history, and we can not see the end from the beginning. We need Thy guiding hand. We need Thy grace. We need wisdom from above to guide our doubtful footsteps aright. In the midst of all the confusion we have our tasks to perform and our problems to solve. May we still hold Thy hand and be guided by Thy principles. May we have grace and courage to walk by faith and to follow Thee until the day dawns and the shadows flee away. We ask it in Jesus' name. Amen.

The Journal of yesterday's proceedings was read and approved.

PETITIONS.

Mr. RANSDELL presented a petition of sundry citizens of Crowley, La., praying for national prohibition, which was referred to the Committee on the Judiciary.

Mr. FLETCHER presented a petition of the Marion County Board of Trade, of Ocala, Fla., praying for the passage of the river and harbor appropriation bill, which was referred to the Committee on Commerce.

JOSEPH GORMAN.

Mr. MYERS, from the Committee on Military Affairs, to which was referred the bill (S. 6152) for the relief of Joseph Gorman, reported it with an amendment and submitted a report (No. 767) thereon.

SURVEY OF YOSEMITE PARK BOUNDARY.

Mr. MYERS. I ask unanimous consent that the bill (H. R. 2703) for the relief of Drenzy A. Jones and John G. Hopper, joint contractors, for surveying Yosemite Park boundary, which was heretofore referred to the Committee on Public Lands be withdrawn from that committee and that it be referred to the Committee on Claims, it being a claims bill.

The VICE PRESIDENT. The Committee on Public Lands will be discharged and the bill will be referred to the Committee on Claims.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. MYERS:

A bill (S. 6373) to provide for the payment for certain lands within the former Flathead Indian Reservation in the State of Montana; to the Committee on Public Lands.

By Mr. THOMAS:

A bill (S. 6374) providing for the suspension of the requirement of assessment work on mining claims for the year 1914; to the Committee on Mines and Mining.

By Mr. BURLEIGH:

A bill (S. 6375) granting an increase of pension to Isaac F. Kendall; to the Committee on Pensions.

PROPOSED ANTITRUST LEGISLATION.

Mr. STERLING submitted an amendment intended to be proposed by him to the bill (H. R. 15657) to supplement existing laws against unlawful restraints and monopolies, and for other purposes, which was ordered to lie on the table and to be printed.

SECURITIES OF COMMON CARRIERS.

Mr. WHITE. I submit an amendment intended to be proposed by me to the bill (H. R. 16586) to amend section 20 of an act to regulate commerce, to prevent overissues of securities by carriers, and for other purposes, in lieu of the one I presented a few days ago, which I desire to withdraw. The one I submitted misnumbered a section and therefore was not quite intelligent. I ask the leave of the Senate to withdraw the former amendment and to submit this amendment in its stead.

The VICE PRESIDENT. The former amendment will be withdrawn, and the amendment now submitted will be printed, and ordered to lie on the table.

POSTAL SAVINGS SYSTEM.

The VICE PRESIDENT. The junior Senator from Virginia [Mr. SWANSON] was heretofore appointed as a Senate conferee on the bill (H. R. 7967) to amend the act approved June 25, 1910, authorizing a postal savings system, and he requests to be excused from further service. The Chair hears no objection, and he is excused. The Senator from Alabama [Mr. BANKHEAD] is appointed a conferee in his stead.

REPORT OF MASSACHUSETTS HOMESTEAD COMMISSION.

Mr. WEEKS. Mr. President, the Massachusetts Legislature of 1912–13 authorized the appointment of what is called the Homestead Commission of Massachusetts to consider the question of municipal or other furnishing of homesteads for citizens under certain conditions. This commission was appointed and has made a very voluminous report, much of the information having been obtained from foreign sources through our State Department and in other ways. I think it is an important matter for consideration, and I ask that the report be printed as a Senate document. But before that is done it seems to me proper that it should be examined by the Committee on Printing, both as to the feasibility of the printing and to obtain an estimate of the cost of so doing. If it is proper to do so, I should like to have it referred to the Committee on Printing for that purpose.

The VICE PRESIDENT. The report will be referred to the Committee on Printing.

ADDRESS BY A. L. MILLS ON FINANCIAL STATUS (S. DOC. NO. 567).

Mr. CHAMBERLAIN. Mr. President, last week there was held in the city of Portland, Oreg., a convention of the buyers of the jobbing territory tributary to that city. The convention was composed of the business men and women of the Pacific coast and of the Northwest, men and women influential in the financial and business world. On the evening of the 14th instant they were the guests of the Jobbers and Manufacturers' Association of Portland, and on that occasion an address was delivered by Mr. A. L. Mills, who is, and for many years has been, the president of the First National Bank of that city, one of the largest and most prosperous financial institutions of the West. Besides his prominence in financial affairs in the West, Mr. Mills has been prominent in Republican politics and was a few years ago Speaker of the House of Representatives of the State of Oregon. He understands the financial and business as well as the political situation in this country, and I ask unanimous consent that his address may be printed as a public document. It is peculiarly appropriate at this time, because it is a complete answer to those who seem to enjoy prophesying industrial, commercial, and financial disaster. He takes an optimistic view of the financial situation not only in the Northwest but in the whole country, and his opinions are all the more valuable because of his prominence in business as well as in political life. It is remarkable that he attributes the present splendid condition of our business life largely to measures which have been passed by the present Congress, and outlines with reference to the American merchant marine a line of action which is now being pursued by the present administration. I trust that the Senate may consent to the publication of this splendid address as a public document.

The VICE PRESIDENT. Is there objection? The Chair hears none.

PRESIDENTIAL APPROVALS.

A message from the President of the United States, by Mr. Latta, executive clerk, announced that the President had, on August 22, 1914, approved and signed the following acts:

S. 654. An act to accept the cession by the State of Montana of exclusive jurisdiction over the lands embraced within the Glacier National Park, and for other purposes;

S. 1644. An act for the relief of May Stanley;

S. 5574. An act to amend and reenact section 113 of chapter 5 of the Judicial Code of the United States;

S. 5977. An act to authorize Bryan Henry and Albert Henry to construct a bridge across a slough, which is a part of the Tennessee River, near Guntersville, Ala.; and

S. 6116. An act to amend section 195 of the act entitled "An act to codify, revise, and amend the laws relating to the judiciary," approved March 3, 1911.

LAWS OF THE PHILIPPINES (S. DOC. NO. 568).

The VICE PRESIDENT laid before the Senate the following message from the President of the United States, which was